WORKING THROUGH THE WAGE GAP

REPORT OF THE TASK FORCE ON PAY EQUITY
February 28, 2002
Nitya Iyer

DOC
BC
A8
D:W6
2002
c.3

#AG02055

102-03408/

LEGISLATIVE LIBRARY OF BRITISH COLUMBIA
3 3298 00256 6603

TABLE OF CONTENTS

Executive Summary i

Introduction 1

- *Terms of Reference* 1
- *Sex-Based Wage Disparity* 1
- *Pay Equity, Equal Pay for Equal Work, and Employment Equity* 2
- *The Private Sector* 4
- *The Process* 4
- *Outline of Report* 5

I. Sex-Based Wage Disparities in Canada 7

- *A. History and Impact of Sex-Based Wage Disparities* 7
  - 1. History of the rise of sex-based wage disparities 7
  - 2. Impact of sex-based wage disparities 9
- *B. Measuring Sex-Based Wage Disparities in Canada* 10
  - 1. General measurements of gender pay gaps 11
  - 2. Reasons for the gender pay gap 14
- *C. Conclusions on the Dimensions and Causes of the Gender Pay Gap* 18

II. Legal Framework Governing Responses to Sex-Based Wage Disparities 21

- *A. International* 21
  - 1. International Covenant on Economic, Social and Cultural Rights 21
  - 2. Convention on the Elimination of All Forms of Discrimination against Women 22
  - 3. International Labour Organization Convention 100 23
  - 4. Beijing Platform for Action 24
  - 5. Summary of Canada's international obligations 27
- *B. Domestic Laws and Policies* 28
  - 1. Human rights legislation 28
    - a) Prohibition against sex discrimination in employment 29
    - b) Equal pay for equal work 30
  - 2. Employment standards legislation 32

3. Labour codes and collective bargaining 33
4. Employment equity 33
    a) Federal employment equity program 33
    b) Federal Contractors Program 34
    c) Federal public sector gender analysis program 34
    d) Provincial employment equity programs 35
5. Tax measures 35
    a) Federal Child Care Expense deduction 35
    b) The Equivalent to Married credit 36
    c) Education tax deductions 36
    d) Canada Child Tax Benefit 36
    e) GST tax credit 36
    f) Provincial tax credits 36
    g) Child care subsidies 36
6. Employment insurance 37
    a) Maternity, parental and adoption benefits 37
    b) Hours-based calculation of Employment Insurance benefits 37
    c) Benefits during retraining 37
7. Non-legislative measures 37
    a) Public sector pay equity policies 37
    b) Targeted study programs 38
    c) Employer-initiated measures 39

III. Pay Equity **41**

A. History 41

B. Theoretical Issues 44

1. What does pay equity claim to do and can it do it? 45
    a) Reducing the wage gap 45
    b) Addressing occupational segregation and undervaluation of female work 46
    c) Raising women's wages 47
    d) Eliminating historical gender bias 47
2. What are pay equity's premises and do they make sense? 48

a) What is a job's value? 49
  i. The non-market value of a job 49
  ii. Job evaluation 50
b) Should jobs of equal value have equal wages? 52
3. Conclusions on pay equity theory 53
C. The Complaints-Based Model 53
1. Description of the legislation 53
2. Analysis of the legislation 55
D. The Proactive Model 57
1. Ontario's legislation 58
a) Description of the *Pay Equity Act* 58
  i. Substantive provisions 58
  ii. Administration and enforcement 60
  iii. The Read Report 61
b) Analysis of the *Pay Equity Act* 62
  i. Issues arising from the objectives of the Pay Equity Act 63
  ii. Issues arising from the way the law sets out to achieve its goal. 64
    (a) Scope of the statute 64
    (b) Mechanism for determining discrimination in compensation 64
    (c) Maintenance and enforcement 66
c) Assessing effectiveness of the *Pay Equity Act* 68
  i. Compliance 68
  ii. Costs of the legislation 69
  iii. Impact on sex-based wage disparities 70
d) Strengths and weaknesses of the legislation 71
  i. Strengths 71
    (a) Education and awareness-building 71
    (b) Reliance on collective bargaining 72
    (c) Proactiveness 73
    (d) Political commitment 73
  ii. Weaknesses 73
    (a) Complexity and cost 73
    (b) Maintenance of pay equity 74
    (c) Impact 74
    (d) Treating the problem as solved 75

2. Quebec's legislation 75

E. Comments on Canadian Pay Equity Legislation *80*

IV. The British Columbia Context 83

A. The Economic Picture *83*

1. Women and the economy in British Columbia 83

a) Sectoral employment patterns 84

b) Employment by industry and region 84

i. By industry 84

ii. By region 85

c) Employment by occupation 85

d) Employment by size of firm and self-employment 86

i. Size of firm 86

ii. Self-employment 87

e) Hours of work 87

f) Union coverage 88

2. The gender pay gap in British Columbia 88

3. Economic trends 90

B. How Existing Canadian Approaches Might Work in British Columbia *92*

1. The complaints-based model 92

2. The proactive model 93

3. Taking no action in the private sector 94

V. A New Approach to Addressing Sex-Based Wage Disparities 96

A. Why We Need a New Approach *96*

B. Recommendation for Reform *100*

1. Recommendation: Achieving equal pay for equal work 101

a) Rationale 101

b) Implementation 102

i. Human Rights Code or Employment Standards Act? 102

ii. What should be changed? 104

c) Next steps: 105

2. Recommendation: Achieving equal economic opportunity by industry 105

a) Rationale 105

b) Implementation 108

i. Preliminary research 109

ii. Industry studies 109

iii. Voluntary compliance period 111

iv. Review and possible legislative action 112

c) Next steps 112

Conclusion 113

Appendix A: Request for Submissions 114

Appendix B: List Of Submissions 119

Appendix C: Bibliography 121

Appendix D: Significant Federal Pay Equity Cases 150

Appendix E: Gender Wage Gap by Industry in British Columbia 154

EXECUTIVE SUMMARY

The report of the Task Force on Pay Equity is written in response to the request of the Attorney General of British Columbia, dated August 8, 2001, to undertake an independent review of pay equity in British Columbia, and to advise on the extent to which current Canadian models of pay equity legislation are an effective and efficient response to sex-based wage disparity in the private sector.

There is no dispute that substantial sex-based wage disparities (also referred to as gender pay gaps) exist in British Columbia and across Canada, or that they adversely affect women in a number of ways. Aside from reflecting and reinforcing gender-based inequality in our society, sex-based wage disparities contribute to women's poverty both in the short term and the long term, as lower incomes lead to lower pensions.

Gender pay gaps can be measured in different ways; however, any such measurement is only an estimate. Different measurements of the gender pay gap will reflect different assumptions about the nature of the problem and its causes, and will point to different solutions.

Common measures of gender pay gaps include the gender earnings gap (representing the difference between the annual earnings of male and female full-time full-year workers), and the gender wage gap (representing the difference between female and male earnings based on hourly wages). In 1997, the gender earnings gap in Canada was 27.5% (27.1% in British Columbia) meaning that, on average, full-time full-year female workers earned 72.5% of men in Canada (72.9% in British Columbia). In the same year, the gender wage gap was 19.6%, meaning that, on average, women earned 80.4% of what men earned per hour. The difference between the gender earnings gap and the gender wage gap reflects the fact that, even when only considering the earnings of full-time workers (defined as those who work over 30 hours per week and 49 or more weeks per year), men work more hours per week and more weeks per year than do women.

A number of factors contribute to sex-based wage disparities, although their causative effect varies between and across different groups of women and different occupations and industries. These factors include: age and family status (disparities increase as women age and with marriage) education, work patterns (labour market experience, job tenure and hours of work), unionization, industry, firm size, and gender segregation (the segregation of women and men within and among different occupations, industries and employers). Statistical analysis of the impact of these factors suggests that the three most important contributors to the gender pay gap are: industry, full-time full-year job experience, and occupation. After controlling for all factors known to contribute to the gender pay gap, over 50% of the gap remains unexplained.

The factors known to affect the gap themselves are partly caused by individual preferences or other non-discriminatory factors and partly by past or present discriminatory attitudes or practices. It is reasonable to assume that both discriminatory and non-discriminatory factors are also responsible for the unknown portion of the gender pay gap. However, how much of the gender pay gap is attributable to discrimination remains controversial and there appears to be no empirical method of resolving this question. This report accepts that some unquantified portion of the gender pay gap is unfair. It identifies equal economic opportunity in employment for women as a goal, and the reduction of the gender pay gap as a step towards attaining that goal.

The current legal framework of governmental responses to sex-based wage disparity in Canada includes international and domestic initiatives. Canada has signed a number of international instruments, committing itself to ensure equal remuneration for work of equal value without distinction on the basis of sex, and to redress gender inequality in wages. Federal and provincial governments have implemented various initiatives which target particular aspects of the gender pay gap. These include: human rights provisions prohibiting discrimination in employment on the basis of sex, family status or marital status, and guaranteeing equal pay for equal work to men and women; employment standards provisions guaranteeing maternity, parental and adoption leave; minimum wage regulations; legislative rights to engage in collective bargaining; employment equity initiatives; tax measures to offset child care costs and to assist low-income earners; and reforms to Employment Insurance benefits. Non-legislative initiatives include British Columbia's public sector pay equity policy, and targeted student loans and training programs. Canadian employers have also voluntarily implemented various measures to promote equal economic opportunity for women within their workplaces.

Pay equity is an initiative that aims to reduce the discriminatory portion of the gender pay gap by eliminating the undercompensation of women's work which is said to result from occupational segregation (the concentration of women and men in different occupations) and historical gender bias. It does not address other factors contributing to the gender pay gap, including that portion of the gap attributable to women working fewer hours and weeks than men.

Pay equity works by calculating the value of jobs in a particular workplace which are performed predominantly by women and those which are performed predominantly by men, and then equalizing the wages paid for "male" and "female" jobs of equivalent value. Pay equity addresses pay differentials which occur between occupations within a single employer. However, it does not address sex-based pay differentials within occupations or between employers.

One of the most controversial aspects of pay equity is its reliance on the ability to define the value of a job in non-market terms using the technique of job evaluation. "Value" in this context means value to the employer. Critics of pay equity argue that it is not meaningful to define the value of a job without reference to the market, because the value of the skills required to do a job varies over time depending upon demand for those skills and availability of persons with those skills. Job evaluation is a method for determining the value of job based upon an assessment of the content of the job in relation to the skill, effort, and responsibility it entails and the working conditions under which it is performed. It, too, is controversial. In particular, if gender bias in the market has caused "female" jobs to be undervalued, critics ask how similar biases can reliably be excluded from job evaluation processes.

There are two existing models for private sector pay equity legislation in Canada. The complaints-based model is exemplified by s. 11 of the *Canadian Human Rights Act*, which enforces equal pay for work of equal value in the same way that other human rights are enforced. A complaint that an employer is paying different wages to male and female employees performing work of equal value in an establishment must be made to the Human Rights Commission. The complaint is investigated and, where it appears well-founded, referred to a tribunal for hearing. This approach to pay equity has been widely criticized as expensive, cumbersome, and inefficient. Many agree that a complaints-based model, which is primarily aimed at enforcing individual rights, is ineffective to address sex-based wage disparities because these disparities reflect a systemic rather than an individual problem.

The Ontario *Pay Equity Act*, and the Quebec *Loi Équité Salariale* both adopt a proactive model, whereby public and private sector employers must take positive, legislatively specified steps to achieve and maintain pay equity within their workplaces by using job evaluation processes. Employee or union involvement in the process is required.

The Ontario statute came into effect in 1988, and substantial resources were allocated to support it, including funds to educate employers and workers about the law, to assist employers to implement pay equity, and to expeditiously settle disputes. Nonetheless, the *Act* has had less impact on wages than expected, and some suggest that it has had virtually no effect in reducing the gender pay gap in Ontario. Compliance levels are known to be low, particularly among smaller employers. Various aspects of the legislation have been criticized. However, the law has also stimulated increased awareness of sex-based wage disparities and wage discrimination among employers and workers in Ontario.

The Quebec statute is a refinement of the Ontario legislation. It was enacted in 1996. While it improves upon the Ontario law in some respects, it is no better in others, and it suffers from a lack of adequate financial and administrative resources to support its implementation. Although it is early to assess the impact of the Quebec law, as the date for completing all pay equity adjustments expired only in November 2001, compliance rates appear low and pay adjustments seem to be relatively slight.

Canadian experiences with pay equity legislation demonstrate that a proactive model is superior to a complaints-based model. However, accepting that pay equity aims to address only part of the gender wage gap, the impact to date of the proactive pay equity laws enacted in Ontario and Quebec has been disappointing, and does not provide strong support for adopting this model in British Columbia. This kind of pay equity legislation is ill-suited to the circumstances of smaller employers, and may not address the most significant barriers to women's equality of economic opportunity in some industries and occupations.

British Columbia's economic and employment context will affect the success of any equity-enhancing initiatives taken in this province. The provincial economy is changing from a traditional industrial economy to a knowledge-based economy, and service-based industries are increasing in importance. High concentrations of women are found in the health care and social assistance sector, in education services, and in finance, insurance and real estate. Women are underrepresented in goods-producing sectors, such as construction, primary industries, and manufacturing. The gender pay gap varies significantly among industries, as do wages generally. Compared to Ontario and Quebec, British Columbia's economy is more decentralized, with a higher proportion of small businesses. Based on this economic and employment picture, pay equity legislation would likely be less successful in addressing sex-based wage disparities in British Columbia than it has been elsewhere. Pay equity can be a useful technique to reduce the gender pay gap in some workplaces, but it is not sufficiently effective to justify its imposition across the whole of the private sector. However, it is unacceptable to do nothing, as there is no evidence to suggest that the portion of sex-based wage disparities that derives from past or present discriminatory attitudes and assumptions about women will disappear on its own.

A new approach to addressing sex-based wage disparities is necessary, one which focuses on stimulating systemic change. This can best be done by taking steps to increase awareness of the problem in specific contexts and by working in partnership with the private sector to craft concrete initiatives that respond to the contours of sex-based wage disparities in particular industries. What follows is a summary of the report's specific recommendations for implementing this new approach.

Summary of Recommendation

Equal Pay for Equal Work

- Repeal s. 12 of the *Human Rights Code* and enact an equal pay for equal work provision in the *Employment Standards Act*.
- Allocate staff and funds to build awareness of this right generally, ensuring such measures are aimed at vulnerable communities, including publicity, telephone access, pamphlets and online information.
- Implement systems to ensure prompt responses to inquiries, mediation and settlement of complaints, and other mechanisms for expedited dispute resolutions.
- Clarify the scope of the right with appropriate definitions; shift the onus to employers to justify any gender-based wage difference for similar or substantially similar work.

  (Timeframe: to fit with other changes to *Employment Standards Act* and *Human Rights Code*; within 1 year.)

Achieving Equal Economic Opportunity by Industry

- General: Overall responsibility for coordinating this initiative will lie with a ministry with the necessary resources and expertise. Industries not included in the initial set of studies will be studied subsequently, so that all British Columbia industries adopt appropriate equity-enhancing initiatives (completing Steps 1 and 2) over a 4-5 year period, with subsequent review and possible legislative action.
- *Step 1*: Undertake preliminary research to identify and prioritize 4-5 industries for industry case studies, and to group industries for subsequent studies. (Timeframe: 6 months – 1 year.)
- *Step 2*: Independent researchers conduct industry studies with the participation of industry employers, employer associations, workers and trade unions to publish a report on the current state of the industry with respect to the equality of economic opportunity of men and women within the industry, including a set of recommended initiatives to improve it. Reports should recommend how to achieve gender-neutral compensation practices, equitable access to employment opportunities, and a positive environment for women in the industry. (Timeframe: 6 months – 1 year.)
- *Step 3*: Implement a voluntary compliance period during which industry employers should agree to adopt a set of gender equity-enhancing initiatives based on the industry study; government should provide industry-appropriate positive incentives to facilitate compliance. (Timeframe: 3 – 4 years.)
- *Step 4*: The ministry responsible for the initiative will conduct a review of the industry to assess what progress has been made. Where appropriate, the ministry may recommend legislative action to ensure that equality of economic opportunity is improved within the industry. (Timeframe: 6 months – 1 year.)

INTRODUCTION

Terms of Reference

This report contains my review and recommendations concerning initiatives to address sex-based wage disparity in the private sector. It is written in response to the Attorney General's request, dated August 8, 2001, that I "undertake an independent review of pay equity in British Columbia." More particularly, the terms of reference for my study were as follows:

> This review is to be undertaken within the context of the Government's New Era commitment to review the options, models, costs and effectiveness of private sector pay equity legislation and make recommendations to the legislature. In particular, I ask that you advise on the extent to which current Canadian models of pay equity legislation are an effective and efficient response to sex-based wage disparity in the private sector.

The report was to be completed by February 28, 2002.

As I understand my terms of reference, I have been asked to evaluate what legislation exists in Canada to address "pay equity" in the private sector. For the purposes of assessing how well existing legislation works, the social problem the Attorney General has identified is "sex-based wage disparity in the private sector." Since these terms can convey different meanings to different people, it is useful to set out my understanding of them at the beginning of this report.

Sex-Based Wage Disparity

The Attorney General has identified "sex based wage disparity" as a matter which may require a governmental response. The term refers to the lower employment earnings of women as compared to men. The disparity is evident in general (among all Canadian men and women), and also between men and women with similar education, experience, and other wage-determining characteristics. Sex-based wage disparity is a complex, persistent and multi-faceted phenomenon that results from a number of interrelated causes. The dimensions of the disparity are controversial, as people disagree over how it is most appropriately measured. People disagree about whether to measure earnings hourly, weekly, or in some other way, whether to include part-time or casual workers, and what constitutes earnings. There is also disagreement about what the causes of the disparity are, and which of them ought to be addressed, particularly by government action.

Because of its varying dimensions and many causes, it is more accurate to talk about sex-based wage disparities rather than a sex-based wage disparity. Talking about disparities underscores that what is in issue is not a single problem with a single cause or solution. I use the term "sex-based wage disparities" in its most inclusive sense. I will define various ways to measure sex-based wage disparities and note how different measurements focus attention on different aspects of these disparities. In this report, I will discuss what we know about the dimensions and causes of sex-based wage disparities within British Columbia and in Canada, both presently and over time. I will try to identify some of the causes of sex-based wage disparities that have attracted public concern. I will also discuss the existing initiatives to address sex-based wage disparities. One such initiative is pay equity. Others include equal pay for equal work, employment equity, minimum wages, and maternity and parental leaves.

In this report, I start from an assumption that society ought to be concerned about the persistence of sex-based wage disparities. However, I do not assume from the mere existence of these disparities that the government ought to do something about them. Whether government should try to reduce sex-based wage disparities depends on their causes and whether or not we are troubled by them. For example, if one cause is that men tend to work more hours per week than women, some would not consider this a reason for concern, because the number of hours you work is a matter of personal choice, and if you work less, you should earn less. Others, pointing to women's greater unpaid family responsibilities, might say that women do not freely choose to work less, they are pressured to do so because of longstanding social assumptions about their family roles, so the wage disparity that results from gender-based differences in hours of work is troubling. That group, in turn, might differ over what to do about it: should women be encouraged to work more hours, should they be compensated for their family responsibilities, or should these responsibilities be alleviated? Whether and what initiatives government takes to address sex-based wage disparities will turn on the answers to these kinds of questions.

The perspective from which I will assess which of the various reasons for sex-based wage disparities require some governmental action is that a government's goal ought to be to ensure equal economic opportunity in employment for men and women. As far as possible, and consistent with other fundamental values, the government of British Columbia should ensure that the gender and gender-related attributes, including socially-imposed ones, of British Columbia workers do not restrict or diminish their ability to realize their full economic potential. This means that a person should not be paid less for work, or denied access to work because of assumptions about their gender. Where gender-related attributes do affect work, it means that appropriate positive actions should be taken to minimize any adverse impact due to gender. The goal of equal economic opportunity means that women and men should not be economically penalized for being women or men, whether that means ignoring their gender or accommodating it. Reducing the gender pay gap is a step towards achieving equal economic opportunity in employment for women in British Columbia.

Pay Equity, Equal Pay for Equal Work, and Employment Equity

These three terms refer to the initiatives most directly associated with redressing sex-based wage disparities in Canada. Sometimes they are used interchangeably; however, they differ significantly in how they address the problem. It is important to be clear about the nature of these initiatives, how they differ, and how they relate to each other.

Pay equity refers to initiatives that first, evaluate jobs performed predominantly by women against dissimilar jobs performed predominantly by men for the same employer and then, where the jobs are of comparable value, ensure that a "female" job attracts the same pay as a comparable "male" job. The premise of pay equity is that dissimilar jobs can meaningfully be evaluated and compared. Usually, the comparison of dissimilar work is done by evaluating each job in relation to fixed criteria. Most often, these criteria are the skill, effort, and responsibility entailed by the job, and the working conditions under which it is performed. Pay equity thus addresses sex-based wage disparities by adjusting the rate of pay for predominantly female jobs to match that of dissimilar predominantly male jobs that are of comparable value to the employer. It assumes that an important cause of sex-based wage disparities is the fact that men and women do different jobs (occupational segregation) and that jobs predominantly performed by women are undervalued and underpaid because of historical gender bias. There is pay equity legislation that applies to the private sector in Ontario, Quebec and in the federal jurisdiction. Most other Canadian jurisdictions, including British Columbia, have pay equity laws or policies that apply only within the public sector.

Equal pay for equal work differs from pay equity. It requires a comparison of similar work performed by men and women. Where the work is similar, equal pay for equal work ensures that it attracts the same pay, regardless of whether it is performed by a woman or a man. Although the work may be compared with reference to the same criteria as in a pay equity analysis, the focus of the comparison is the similarity of the work performed. In an equal work analysis, equal pay follows only if the work done is similar, at least in respect of core tasks. Equal pay for equal work focuses on workers: the work performed by a female worker or workers is compared to similar work performed by a male worker or workers. Equal pay for equal work addresses only the most evident aspect of sex-based wage disparities: it equalizes differences in pay where men and women are performing similar work, where there is no other justification for the difference in pay. There is legislative entitlement to equal pay for equal work in the private sector in every Canadian jurisdiction, including jurisdictions where there is private sector pay equity legislation. The right to equal pay for equal work is usually found in the jurisdiction's human rights or employment standards law.

Employment equity refers to initiatives which address sex-based wage disparities by trying to change the jobs women do. Like pay equity, employment equity considers the fact that men and women tend to work in dissimilar jobs as a significant cause of sex-based wage disparities. Employment equity addresses this problem by encouraging women to move into "male" jobs: it changes what people are paid by changing what they do. Employment equity initiatives can affect recruitment, hiring, transfer, and promotion processes; they can also include special training, mentoring, and other opportunities. Some employment equity initiatives include setting targets for the representation of women in different levels or occupations within an organization. Employment equity initiatives often encompass groups other than women. Many Canadian employment equity initiatives aim to enhance the economic opportunities of four groups: women, aboriginal persons, people with disabilities, and visible minorities. The only employment equity legislation that applies to the private sector is in the federal jurisdiction. Many Canadian jurisdictions, including British Columbia, have employment equity policies that apply to all or parts of their public sector.

Pay equity, equal pay for equal work, and employment equity all aim directly to reduce sex-based wage disparities. Equal pay for equal work laws prohibit paying women less than men for doing similar work only where there is no apparent explanation for the difference in pay that is unrelated to gender. Both pay equity and employment equity take a broader view of the problem. They treat the tendencies for men and women to do different jobs, and for jobs done mostly by women to attract lower pay than jobs done mostly by men, as important and systemic causes of sex-based wage disparities. However, they differ in how they address this problem. Pay equity focuses on paying men and women who perform "women's" jobs more for those jobs. Employment equity focuses on changing the distribution of men and women in certain jobs by moving women out of "women's" jobs and into "men's" jobs.

The Private Sector

The private sector is that part of the economy which falls outside the direct control and responsibility of the government. The core of the public sector is the public service, in which government acts directly as the employer. The broader public sector includes areas where government substantially or exclusively funds the activity and sets parameters for its performance: basic and advanced education, health care, crown corporations, and so on. Some parts of the private sector are easy to distinguish from some parts of the public sector: for example, a neighborhood restaurant is clearly part of the private sector whereas the Ministry of Forests is clearly part of the public sector. However, in other areas, private and public sector enterprises are more closely related. For example, community health or child care services are sometimes provided by broader public sector enterprises and sometimes by private enterprises. As government evolves over time and the trend towards deregulation continues, areas that have been part of the public sector may be "privatized." In other areas, particularly with the advent of new technologies, formerly private spheres of enterprise may be subject to increased government control.

Although the focus of this report is the private sector, the history and present status of public sector initiatives to address sex-based wage disparities are an important part of the background context. The public sector has traditionally led the way in implementing measures to redress sex-based wage disparities. Before extending such measures to the private sector, Canadians look to their governments to demonstrate equity-enhancing practices in their own capacities as employers of many Canadians. While government as employer ought to be a leader in demonstrating equity-enhancing employment practices, this is not to say that a measure that is effective in addressing sex-based wage disparities in the public sector will also be effective in the private sector. The many differences between public and private sector employers can mean that a measure that works well in one sector will be ineffective or inefficient in the other. Therefore, when considering what measures might be effective to address sex-based wage disparities in the private sector, it is useful to know what measures apply to public sector employers, without assuming that they ought to apply universally.

The Process

At the outset of my review, the Attorney General stipulated that I should solicit public input by written submissions. In early September 2001, I made a public request for submissions and issued a short document setting out a number of topics and questions to assist the public in thinking about the problem [Appendix A]. The request for submissions was advertised by newspaper throughout the province and was posted on the Attorney General's website, along with an independent address and telephone number.

The deadline for submissions was November 30, 2001. I received approximately 50 submissions from a wide variety of groups and individuals. A list of the submissions received is appended to this report [Appendix B]. I found the submissions very helpful, particularly in the more creative aspect of my review, that of suggesting positive measures to effectively address sex-based wage disparities in the private sector. While I have not separately summarized the submissions I received, I have referred to some of them in this report. Even where not explicitly acknowledged, they have influenced my thinking and I am very grateful to the many people who put so much time and effort into sharing their opinions on this complex issue.

In addition to the public submissions, I read widely on the subject of pay equity as a response to sex-based wage disparities. Although I focused on Canadian literature, I also canvassed the writing in other jurisdictions, including the United States, European countries, and Australia. I read about the issue from a variety of perspectives, including labour, management and feminist analyses, and within a number of disciplines, including law, sociology, economics, and statistics. A bibliography of these materials is attached to this report [Appendix C].

I also consulted a number of people on an informal basis, both within British Columbia and elsewhere. I met a number of individuals in person in Victoria, Vancouver, Toronto and Ottawa. I contacted others by telephone, in Quebec, Montreal, and in the United States. They included activists and academics, policy-makers, and those with experience in administrating various pay equity initiatives. The people with whom I spoke were generous with their time and their thoughts on the subject. As was the case with the submissions, their contributions helped to shape my views on the effectiveness of existing measures and on new approaches. I am grateful to them. As many of these individuals were very frank in expressing their views because of the informal nature of our discussions, I have not identified them here.

Finally, I would like to express my deep gratitude to Sandra Goundry, Judith Killoran, Susan Arnold, Andrea Zwack, Lee Timbs, Christine Chouinard, and Deb Sutherland, who contributed their considerable talents to the preparation of this report.

Outline of Report

The report is divided into six parts. I start by looking in some detail at sex-based wage disparities presently and historically, as well as their social and economic impact. I then consider various measures of these disparities, together with what is known about their causes, and discuss which of these causes should be addressed by government action.

In the second part of the report, I look at the legal framework within which any measures to address sex-based wage disparities in British Columbia's private sector must be situated. I summarize Canada's international obligations, as well as some of the various domestic (federal and provincial) legislative and other initiatives that are intended, at least in part, to ameliorate these disparities.

In the third section of the report, I turn to pay equity as a specific way of addressing sex-based wage disparities. I present a brief chronology of the development of pay equity initiatives and other measures that address gender inequality in employment in Canada. I then consider the theoretical foundations for pay equity and the debates about its validity and efficacy in general. In the next two parts of this section, I look at the two existing Canadian models for private sector pay equity legislation: the complaints-based model and the proactive model, including Ontario's legislation, which was Canada's first proactive pay equity law to apply to the private sector, and Quebec's refinement of the model in its more recent legislation. In my reviews of each of these two models, I describe each measure and what we know about how it has worked in practice. I conclude the section with some observations about what British Columbia can learn about legislated private sector pay equity initiatives from the experiences in these other Canadian jurisdictions.

In the fourth section of the report, I present features of British Columbia's economy salient to a discussion of private sector initiatives to address sex-based wage disparities in this province. This picture includes a description of women and the economy in British Columbia, measures of sex-based wage disparities in the province, and some important economic trends. On the basis of this information, I then consider how adopting private sector pay equity legislation, either on the complaints-based model or the proactive model, might work in British Columbia, as well as the likely consequences of taking no action. I reject each of these options.

The fifth and final section of the report argues for an innovative approach to sex-based wage disparities in British Columbia's private sector. I first state why a new approach is needed and present some of the suggestions others have made about how to address the gender pay gap. Next, drawing on the experience in other jurisdictions and on the current and projected economic and labour picture in British Columbia, I suggest that aspects of sex-based wage disparities can and should be addressed by government in partnership with the private sector. I recommend a two-pronged approach. The first prong comprises more vigorous and effective enforcement of the current legislative entitlement to equal pay for equal work. I outline the need for more effective enforcement initiatives to guarantee this right, violations of which continue to contribute to sex-based wage disparities in British Columbia. The second prong consists of an industry-specific approach to sex-based wage disparities. Its premises are that any governmental initiative to guarantee women's equality of economic opportunity in employment in the private sector can most meaningfully be addressed at an industrial level, and that, to be effective, the barriers to women's equality of economic opportunity must be addressed in an integrated way suitable to particular industrial contexts. This aspect of the recommendation is incremental in nature. It has an awareness-raising and educational component coupled with positive incentives for employer action in its initial phases, followed by legislative action, in the event that positive incentives are insufficient. I also make suggestions for next steps in implementing these recommendations.

I. SEX-BASED WAGE DISPARITIES IN CANADA

It is not possible to assess whether pay equity legislation is an effective and efficient response to the problem of sex-based wage disparities without first considering what those disparities are, where they came from, and what kinds of problems they create. Unfortunately, trying to describe even the dimensions of sex-based wage disparities in Canada is much harder than one would think. This is because the nature and degree of the disparity depends on whom one looks at. If one were to compare the average income of all adult Canadian women with the average income of all adult Canadian men, one would get a very different figure than if one were comparing the earnings from their primary job of women and men of the same age and educational credentials. Further, the measure of the disparity one selects implies something about what one thinks is the problem. Is it a problem that, on average, adult Canadian women have significantly less income than Canadian men, regardless of their many differences? Or is the problem narrower: is it only wage disparities between women and men of the same age and level of education with respect to their primary source of employment income with which we are concerned? What if, in the latter group, women tend to work fewer hours than men? Is this a problem?

Many political and moral assumptions are embedded in the figures that are often recited as "the" measure of the "wage gap". In order to promote a more complete understanding of sex-based wage disparities and the reasons we might be concerned about them, I first briefly trace an outline of the history of women and work. I also discuss, in very general terms, the social and economic impact of persistent sex-based wage disparities. I then explore various measures of sex-based wage disparities in detail, along with some of the factors generally recognized to contribute to them.

A. History and Impact of Sex-Based Wage Disparities

1. History of the rise of sex-based wage disparities

It seems trite to describe the cause of sex-based wage disparities as the entry of women into the paid labour force. If women did not work for pay, there would be no wage disparities based on gender. But the dimensions and causes of present sex-based wage disparities have everything to do with historical differences between women's and men's relationship to paid work. Historically, within the dominant Canadian culture, women and men had very different roles at home and at work, and the accepted reason for that difference was their gender.

Before World War II, women who worked for pay had a very different pattern of labour force participation than men. If they worked for pay at all, they tended to work only while single, before marriage, or after divorce. Married working class women who worked did so only to the extent that their husband's income was insufficient to support their families. The dominant cultural ideal was that women were responsible for the home; the male role was to earn the money to support a woman (and children) in it. The prevalent and widely-accepted practice of paying women less than men, even for the same work, was justified on the basis of their different spheres of responsibility. Writing in 1917, Eleanor Rathbone identified four commonly stated reasons for women's lower pay: women are less often unionized than men; women mostly work for "extra" money; women have fewer material needs than men and a lower standard of comfort; and women only work to support themselves, whereas men support families (Rathbone, 1917: 60).

With the advent of World War II, female labour force participation increased dramatically, regardless of class, age, or marital status. In 1939, only one-quarter of Canadian women were in paid employment. By 1945, one-third (one million) Canadian women were working for pay. Even though they were considered to be a secondary and temporary labour reserve, the kind of work women performed during the war was not stereotypically female. It was crucial to Canada's war effort. As Annis May Timpson has written, "because women made bombs, built ships, trained air crews, staffed the public service, and met farm production schedules on time, they debunked the long-established myth that such jobs could be done only by men." As a result, "the possibility that women could assume a status in the labour market that was equal to men began to emerge" (Timpson, 2001: 14).

After the war, female labour force participation declined briefly. Some women made a conscious choice to stop working for pay. Others (about 80,000) were laid off from war industries to create jobs for returning men. In 1945, the prohibition on married women working in the federal public service was reintroduced in order to create job openings for returning soldiers. (It was not finally removed until 1955.) In the aftermath of the war, the public focus was very much on the need for men to earn a "family wage" in the world of work, and for women to resume their position within the world of the family.

Shortly afterwards, during the 1950s, Canadian women started entering the labour force at one of the fastest rates among Western industrialized nations. However, they did not work in the same occupations as men. The rise of the service sector and decline of the manufacturing sector meant that women entered occupations and industries in which traditionally feminine skills (for example, in nurturing occupations) comprised a large part of the work. This occupational segregation of women differentiated women from men within the labour force. The increase in women's labour force participation was disproportionately in part-time work, concentrated in the least organized, lowest skilled and most poorly remunerated parts of the labour force. At this time, segregating men and women into different jobs and paying lower wages to women were widely accepted. Employers and unions created separate salary scales for male and female jobs, with female jobs attracting lower wages. Employment opportunities were advertised in newspapers under gender-specific headings: "Men Wanted" or "Women Wanted".

The influx of women into the labour force continued through the 1960s. From the 1960s through the 1980s, the most notable change in women's labour force participation was among women with children. Whereas in the early '60s women would leave work when their first child was born and return when their last child entered school, by 1991 that pattern had disappeared. In fact, women's labour force participation is now greatest in the peak child-bearing and rearing ages of 25-34. This is not to say that child-bearing has no impact on labour force participation. Canadian women may move to part-time work or make other changes to accommodate family responsibilities. What is different is that they no longer leave the paid labour force entirely.

Overt differentiation between male and female workers disappeared by the 1960s; salary scales were integrated and employment advertisements appeared under the heading "Help Wanted." But the elimination of formal gender-based distinctions was fairly superficial. Integrated salary scales did not significantly alter the low wages paid for female work. Because of the differences in the nature of the work, men and women still tended to belong to different bargaining units. Despite integration and increased unionization of the private sector during this period, there was little immediate change in wage rates for "women's" work. Similarly, there was little immediate change in wage rates for predominantly female jobs in non-union enterprises. Although wage rates for female jobs did increase relative to wage rates for male jobs over time, pay gaps persisted and continue to be evident today. (See generally, Timpson, 2001; Hadley, 2001)

2. *Impact of sex-based wage disparities*

Sex-based wage disparities have and will continue to have significant negative economic and social impacts on women and on society in general. They are not a merely Canadian or North American phenomenon; sex-based wage disparities are evident in all countries and are persisting over time.

Data from the International Labour Organization (ILO) show that women's earnings are less than men's throughout the world. Regardless of region, women earn 60-70% of what men earn monthly and 75-80% of what men earn based on hourly earnings. Interestingly, these ratios do not differ significantly as between OECD and developing countries. Countries where sex-based wage disparities are especially high include Japan, Korea and Luxembourg (with gender pay gaps of 40% or more); countries where the gap is especially small include the Scandinavian countries, Australia and Sri Lanka (with gender pay gaps of under 20%) (Anker, 1997).

The global impact of sex-based wage disparities was the subject of comment in a recent report of the World Bank, *Engendering Development Through Gender Equality in Rights, Resources and Voice* (2001). The report documents the global pervasiveness of gender inequality, including sex-based wage disparities and, based on its consideration of the costs of these inequalities, advocates for adoption of a strategy to promote gender equality. The report's definition of gender equality includes "equality of opportunity" which is defined as including "equality of rewards for work and equality in access to human capital and other productive resources that enable opportunity". This definition is consistent with the goal of equal economic opportunity for men and women in employment in British Columbia's private sector.

The World Bank's report catalogues many of the costs associated with gender inequality in general and with sex-based wage disparities in particular. In general, societies with large and persistent gender inequalities also have higher rates of poverty, malnutrition and ill-health. Gender inequality also imposes costs on an economy's productivity, efficiency and progress. An inefficient allocation of household labour, caused by gender stereotypes, leads to inefficiencies in the paid labour force. Gender-based differences in wage determining characteristics, such as educational attainment, mean that women produce less (and earn less) than they are capable of doing. The report concludes that countries with smaller disparities between men and women in areas such as education and employment have more transparent business and government and faster economic growth which, in turn, further reduce gender gaps.

Sex-based wage disparities contribute to women's poverty. Because women earn less than men, they are more likely to be poor than men. Poverty, with its well-known catalogue of negative present and future effects on health, well-being and opportunity for economic attainment, imposes costs on women who are poor along with those dependent on them. Growing up in poverty has an adverse impact on children's future economic opportunities. Economic vulnerability also negatively affects women's physical security. To the extent that sex-based wage disparities make it harder for women to attain a basic level of economic security, they create many serious barriers for women in all aspects of their lives. (See generally, Day and Brodsky, 1998; McLaren and Manery, 2001; King, 2001; Federal/Provincial/Territorial Ministers Responsible for the Status of Women, 2001.)

Present sex-based wage disparities have long term economic impact: lower wages now mean lower pensions later; women are also over-represented in jobs without private pension benefits. The growing statistics on poverty among older women document a negative impact associated with sex-based wage disparities that is likely to increase over time.

Persistent sex-based wage disparities prevent women from realizing their maximum economic potential both directly and indirectly. Sex-based wage disparities may impose an economic penalty on women by paying them less than men with the same wage-determining characteristics would earn. Further, if women know that their investment in higher education, their dedication to remaining in a job, or the hours they put into it will not translate into the same economic recognition that a man would get for doing those things, what incentive do they have to make such investments? Sex-based wage disparities thus reinforce the continued economic inequality of women and a gender-based division of labour.

Persistent sex-based wage disparities have adverse social consequences. To the extent that sex-based wage disparities are the consequence of unfair assumptions about the worth and capacities of women as workers, our failure to take action to eliminate this part of the gender pay gap sends a negative social message to our daughters (and sons) about their worth. If we do not act to reduce them, we are saying that female workers are not as worthy as male workers.

B. Measuring Sex-Based Wage Disparities in Canada

Canadian women's labour market experience has changed significantly over the last five decades. In that time, women's labour market participation rates have risen dramatically and they have increased the strength of that attachment. Women have broadened the kinds of work they do for pay, slowly entering traditionally male occupations. And they have increased their education levels, acquiring the formal credentials to gain access to better-paying jobs. Despite these positive developments, sex-based wage disparities have persisted. While most measures of sex-based wage disparities show that the gap has narrowed over the last few decades, no matter how similar the groups being compared (or how many variables are controlled), there is a gap between men's and women's wages that operates to the economic detriment of women. More worrying are the indications in the last few years that the narrowing trend is not continuing, and that the gradual reduction of the gap has slowed or stalled.

Sex-based wage disparities are often referred to as the gender earnings gap, the gender wage gap, the gender pay gap, or the gender income gap. Other commonly-used terms are the aggregate wage gap and the adjusted wage gap. I found little consistency in the use of these terms in the literature. Before turning to the numbers, therefore, I will define the terms I find most useful and use them consistently throughout this report.

The ***gender earnings gap*** represents the difference between male and female annual earnings, comparing only full-year full-time workers. What constitutes "full time full-year" may vary. Generally it includes any work over 30 hours per week for 49 or more weeks per year.

The ***gender wage gap*** represents the difference between female and male earnings based on hourly wages. In other words, it eliminates any differences in pay based on the fact that men tend to work more hours per week and more weeks per year than women. The gender wage gap may be based on the hourly earnings of both full and part time workers or only one of them.

The ***gender pay gap*** is a generic term used to refer to both the gender earnings gap and the gender pay gap, the two most common and most useful ways to calculate sex-based wage disparities. I use the term gender pay gap synonymously with sex-based wage disparities.

The ***gender income gap*** represents the difference between male and female incomes. It includes all income, whether from employment or from some other source. As such, it is useful when the topic of discussion is women's general economic security or poverty. It is much less useful when discussing the sphere of employment, since it is not restricted to income from employment. I will not rely on this way of measuring sex-based wage disparities in this report.

The ***aggregate wage gap*** represents the ratio of female to male annual earnings, averaged over all occupations and all segments of the labour market. Because it is so general, it is of limited use in a detailed consideration of sex-based wage disparities.

The ***adjusted wage gap*** represents various calculations of the gender pay gap, usually based on the gender wage gap, when various characteristics are factored out or controlled for. Comparisons of the hourly wages of men and women in the same age group, or with the same number of years of education, or who work in the same occupation, or for same-sized employers are examples of adjusted wage gaps.

Having clarified these terms, how big is the gender pay gap? Unfortunately, the numbers change depending on what data is used to calculate gender pay gaps. There is no single, comprehensive set of income or earnings data that is used consistently by all researchers; researchers also differ in how they calculate the various gaps using the data. This means that any representation of the size of the gender pay gap is always an estimate; it cannot be known with precision.

1. General measurements of gender pay gaps

The various standard sources of data from which gender pay gaps are calculated and the common measurements of the gender pay gap they generate are as follows:

The **Survey of Consumer Finances** (SCF) produces an estimate of annual income of individuals and families. It is used to calculate the gender earnings gap. The most often-cited figure is that women earned 72.5% of men in Canada (72.9% in British Columbia) in 1997, an earnings gap of 27.5% (or 27.1% in British Columbia). This is based on the SCF's comparison of men and women working between 49-52 weeks of the year and 30 or more hours per week and includes all workers, whether self-employed or employees, and their earnings from all jobs, not just their main job.

The SCF was used to calculate the gender earnings gap from 1967 to 1997, making it a useful historical reference. The SCF data show that women earned 58.4% of men in 1967; this had increased to 72.5% in 1997. The SCF stopped being conducted in 1998, when the Survey of Labour and Income Dynamics was introduced.

The **Survey of Labour and Income Dynamics** (SLID) replaced the SCF. It can measure the gender wage gap as well as the earnings gap. Unlike the SCF, it includes employees, but not self-employed workers. SLID data can be used to consider only full-time full-year workers, or it can also include part-time employees. Measurements based on SLID are usually calculated using only earnings from an employee's main job. Using SLID data from 1997, the gender wage gap for all Canadian employees (full and part-time) is 19.6 %. That is, women earned 80.4% of what men earned per hour in 1997.

The **Labour Force Survey** (LFS) can also be used to calculate the gender earnings gap or the gender wage gap. It is based on the regular wages or salaries received by employees in their main job. It excludes earnings from employment in a secondary job, earnings from self-employment, and overtime pay. Based on 1997 LFS data, the gender wage gap in Canada is 17.7%. That is, for every hour worked (whether full or part-time), women earned 82.3% of what men earned per hour in 1997.

Census data is also used by researchers to measure the gender pay gap. Census data is collected every five years, but does not contain any information allowing for control of the amount of work (that is, one can know how much someone earned from employment in a year, but not how many hours they worked to earn it). Based on Census data, Gunderson (1998) calculates the gender earnings gap for full-time, full-year Canadian workers as 37% in 1970, which had fallen to 28% in 1990. (See also Baker et al., 1995, whose figures are slightly different: 40% in 1970 and 33% in 1990.)

One of the reasons for the differences in the gender pay gaps set out above is the different sources of data used to calculate them. But the gap can also be calculated in different ways using the same set of data. Using data collected by SLID in 1997, Canadian women earned:

- 61.6% of men, using annual earnings of all employees in their main job,
- 68.3% of men, using annual earnings of full-time, full-year employees in their main job,
- 80.4% of men, using the hourly wage rates of all employees in their main job, or
- 80.9% of men, using hourly wages of full-time full-year employees in their main job.

What measurement of sex-based wage disparities one chooses from this wealth of options may reflect political choices (does one want to suggest the problem is big or small?) and what causes of the gap we are concerned about. The big differences within the SLID data are primarily attributable to the fact that women work fewer hours per week and fewer weeks per year than men. Even when part-time employees are excluded, "full-time full-year" employees includes a range of hours per week and weeks per year. On average, more women fall at the bottom of that range and more men at the top. Thus, if we are not concerned about the reasons women work less than men, the gender wage gap, which controls for hours worked, is a more useful figure than the gender earnings gap. If we are concerned about this difference, for example, if we think that women work less than men because their share of family and domestic responsibilities is greater, and we also think this is a problem, then the gender earning gap helps to measure the economic impact of this gender-based difference.

Sex-based wage disparities can be measured in ways other than by calculating the gender pay gap. Another useful indicator is to locate where women and men fall along the wage scale. For example, according to BC Statistics, more women than men earn under $25,000 per year (59.6% of women compared to 42.1% of men). Only 7.9% of women earn over $50,000 per year, compared to 25.3% of men. Examining men's and women's relative positions on the wage scale nationally and over time, Lochhead and Scott (1997) found that men's distribution did not change much between 1984 and 1994: they dominated the higher earnings groups and made up a smaller proportion of earners at the lower end of the scale. Most women remained at the lower end of the scale throughout the decade (71% earned less than $28,000 annually in 1994), but they also became more likely to earn over $51,000, moving from 11.5% to 17% of these earners.

Sex-based wage disparities can be measured in general - for all workers or all full-time employees and so on - or sex-based wage disparities can be measured for a particular group of workers. The gender pay gap cannot be assumed to be the same for all women. Women with disabilities, immigrant women, aboriginal women, lesbians, and visible minority women, among others, may experience wage disparities attributable to the combined effect of other characteristics with their gender. Neither the size of the gender gap nor the reasons for it are necessarily the same for a particular group of men and women as they are between men and women in general.

Immigrant women generally earn less than Canadian women in general and earn less than immigrant men. Unlike Canadian women, the gender pay gap between immigrant men and women does not decrease with higher levels of education (Statistics Canada, 2000: 201-3). Women with disabilities experience significantly greater wage disparities, compared to men with disabilities, than those experienced by Canadian women in general (Fawcett, 2000). There is a wage gap between aboriginal and non-aboriginal people of about 11%. However, that wage gap is significantly smaller for aboriginal women than it is for aboriginal men (George and Kuhn, 1994) These few facts suggest that the picture of sex-based wage disparities is far richer and more complex than what is captured in a general calculation of the gender pay gap. Such information is obviously important if one wants to fully understand the complexities of the gender pay gap and ensure that any initiative to address it will benefit all women despite the differences among them. However, as the Women's Quest Assistance Society stated in its submission, very little research has been conducted on the economic vulnerabilities of these groups of women.

Sex-based wage disparities can also be revealed by calculating adjusted wage gaps between men and women of the same age, or educational level, or in the same industry or occupation. The dimensions of these adjusted wage gaps vary significantly with these characteristics. For example, the gender pay gap increases with age. In 1997, women aged 15-24 who worked full-year full-time earned 81% of what similar men earned. Full-time full-year women who were 55 or older earned only 66% of similar men (Statistics Canada, 2000; see also Drolet, 2001).

Some people have pointed to this information to suggest that the gender pay gap is a temporary problem that will solve itself over time. Such a hypothesis appears attractive and might be convincing if that were all we knew about the gender pay gap. However, to be confident that the gap is truly decreasing over time, we would need to know that no other factors (for example, child-bearing) intervene as men and women age so as to cause the gap to widen. There is considerable evidence that such factors exist. For example, Finnie and Wannell examined the earnings of recent post-secondary graduates and found that the gender pay gap was only 7% two years after graduation. Five years after graduation, it had widened considerably to 16%. They concluded that reductions in the gender earnings gap "might not be nearly as great as immediate post-graduation record suggests" (Finnie and Wannell, 1999: 26).

The gender pay gap varies with such personal factors as age, education level and field, marital status, and parental status. It also varies with job-related factors, such as industry, whether one works full or part-time, whether one is unionized, job tenure (the length of time one has been in a particular job), and the size of one's employer. For example, there is a smaller gender wage gap in forestry/mining than there is in consumer services. There is a greater gender wage gap for full-time workers than for part-time workers, and for non-unionized workers than for unionized workers. Sales occupations have a greater gender wage gap than clerical occupations, and large firms (500+ employees) have a slightly larger gender wage gap than small ones (under 20 employees). All of these factors contribute to our understanding of the complex dimensions of the gender pay gap.

2. *Reasons for the gender pay gap*

Not surprisingly, the uncertainties and variations in measuring the size of sex-based wage disparities are also reflected in the reasons suggested for them. Theorists have advanced competing explanations for the persistence of the gender pay gap, in particular the persistence of occupational segregation and of the lower pay associated with "female" jobs. They can be grouped into two general schools of thought. One set of theories (human capital theories) looks at characteristics of men and women workers outside of the labour market and how these affect their productivity within it. A major focus of these theories is the uneven division of unpaid labour between the sexes. The other set of theories (labour market discrimination theories) looks at how features of the labour market, such as employer tastes, over-crowding, and institutional and labour market segmentation, affect the gender pay gap.

Both those who consider sex-based wage disparities as a significant social problem and those who do not rely on both sets of theories. Feminist theorists emphasize the social construction of gender and the historically subordinate position of women as underlying problems, whereas neo-classical economists are more confident that the gender pay gap, occupational segregation and lower wages for female work are mostly attributable to individual choices about where and how much to work. Both human capital and labour market theories help to understand the reasons for the gender pay gap.

The basis for quantifying the causes of sex-based wage disparities is economic analysis and, in particular, the technique of regression analysis. This kind of analysis has its limitations. As was the case with the techniques used to measure the size of the gender pay gap, efforts to determine how much of the gap is caused by which factors are also only estimates, and different analysts produce different numbers. The analysis usually rests on general information and is only useful to that extent. For example, regression analysis might estimate that level of educational attainment explains, say, 3% of the gender pay gap in general. However, it might explain much more or less of the gap for some occupations (for example, engineering) or groups (for example, aboriginal people).

Because of this, any initiative to address the gender pay gap (for example, increasing funding to support women in post-secondary education) is going to have a different impact on different occupations and groups. Further, the most effective initiative to address the gender pay gap is unlikely to be a universal one. If the causes of the gap vary significantly between occupations, industries and worker groups, we may have to tailor initiatives to respond to these differences in gender pay gaps for such groups.

With these cautions in mind, and without delving into the technical debates over how to calculate adjusted wage gaps, the following are the major factors that are generally acknowledged to contribute to the gender pay gap. Whether and to what extent each of these factors reflects a problem that ought to be corrected is a separate question. (As the Canadian Centre for Policy Alternatives noted in its submission, the existence of a wage gap does not prove there is discrimination in the valuation of male and female jobs). My purpose in presenting them here is only to show what we acknowledge as the main reasons for the gender pay gap, not to say that they require correction through government action.

Age and family status are often grouped together as the factors that contribute to the "family pay gap". Measures of family status usually include marital status and the presence of children (sometimes measured in terms of the age of the youngest child). Both the gender earnings gap and the gender wage gap increase with age. Marital status also influences earnings: in Canada, single women earn more than married women but married men earn more than single men. The earnings gap between married Canadian men and women (32.5% in 1997) is greater than the earnings gap between single men and women (9% in 1997). Canadian mothers with children at home earn less than women without children at home but fathers with children at home earn more than men without children at home. Interestingly, the pay gap between mothers and non-mothers is much smaller in Canada than in the US. Many attribute the difference to Canada's superior "work/family" policies, such as maternity and parental leave and benefits.

Education includes both the level of education and the field of study. These have long been recognized as factors in wage determination. Gender differences in level and field of education are accepted as playing a part in the gender wage gap. Women have increased their participation in post-secondary education in general, so that the gender gap in level of education among recent university graduates has virtually disappeared. However, women and men still tend to enter different fields of study and it is this difference that increasingly produces most of the wage gap attributable to education.

Work patterns include labour market experience, job tenure (length of time in a particular job) and hours of work. There are gender-based differences in all three that contribute to the gender pay gap. On average and all other things being equal, women have fewer years of actual labour market experience and tend to have less job tenure then men, likely because of child-bearing and care responsibilities. Likely for similar reasons, women who are full-time employees also work fewer hours per week and fewer weeks per year than full-time male employees. More women work part-time than men and their representation among part-time workers is increasing at a much higher rate than is men's. All three of these factors affect earnings: those with less experience or job tenure, or who work fewer hours, tend to get paid less than those with more.

Unionization is a factor in the gender pay gap because union jobs tend to provide higher wages than non-union jobs, and more men are unionized than women. The gender pay gap tends to be smaller between men and women in union workplaces than between men and women in non-union workplaces.

Firm size is also a factor in pay. Although the gender pay gap tends to be smaller than in large firms, employment in small firms is associated with lower pay than in larger firms. In the private sector, women, especially women who work part-time, are more likely than men to work in smaller firms.

Gender segregation is generally acknowledged to be a significant factor in the gender pay gap. It includes gender segregation across and within occupations, industries and employers. A great deal of the literature on the gender pay gap and on pay equity focuses on the causes and types of gender segregation.

Occupational segregation is usefully divided into vertical and horizontal occupational segregation. Vertical occupational segregation refers to the segregation of men and women into different levels within the same occupational category (women are production workers, men are production managers). Horizontal occupational segregation refers to the segregation of men and women across different occupations (women are nurses, men are truckers).

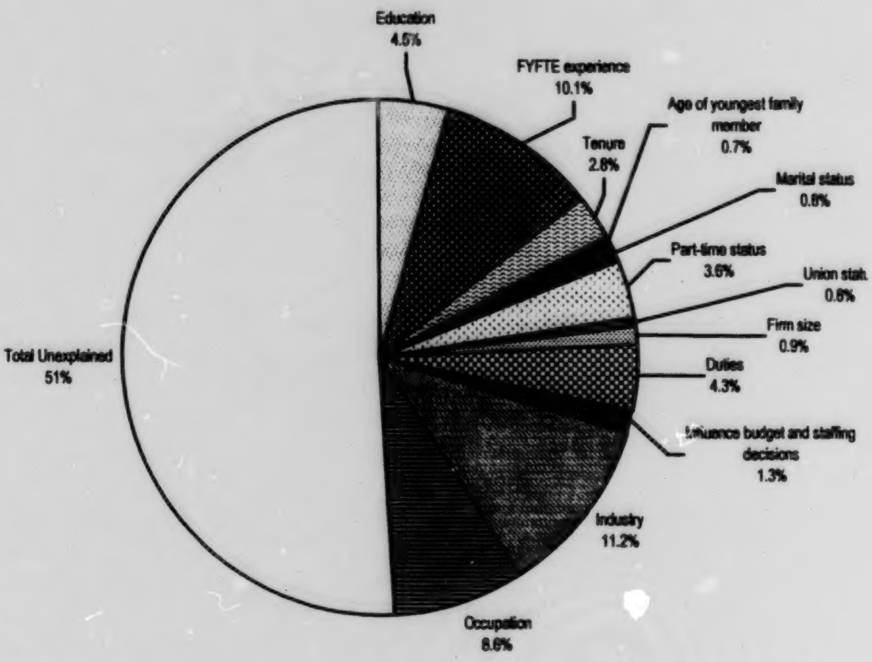
It has been generally assumed that both kinds of occupational segregation contribute significantly to the gender pay gap. However, some recent studies have challenged this assumption. Fortin and Huberman (2002) argue that, over time, horizontal occupational segregation has become a smaller influence on the gender pay gap in Canada and that vertical occupational segregation has become more important. They find that differences in pay between female and male dominated occupations are small relative to the differences in pay between female and male dominated levels of occupations, regardless of whether the occupations as a whole are predominantly female, predominantly male, or gender-neutral (See also Altman & Lamontagne, 1996).

Gender segregation by industry has received less attention in the economic literature than occupational segregation, although women and men are not evenly distributed across industries. Generally, women tend to work in service industries; men predominate in goods-producing industries. Wages in most services industries are lower than in goods-producing industries. The importance of using industries as the unit of analysis is recognized in policy circles, especially with respect to the development of labour adjustment strategies (for example, in the formation of national sectoral councils for various industries in Canada in the 1980s). Policy studies on pay equity as a response to the gender pay gap in other jurisdictions have also underscored the importance of distinguishing between industries (New South Wales, 1998; Queensland, 2001).

There is some research from Britain suggesting that gender segregation between employers (some employers hire mostly men and others hire mostly women) has a noticeable effect on the gender pay gap (Millward and Woodland, 1995). Such segregation may occur within an industry or across industries.

These are some of the main factors that most researchers would agree contribute to the gender pay gap. Different researchers have also recognized other factors as contributing to the gap. The relative importance of all of the factors in causing sex-based wage disparities is controversial. Recognizing that there is no real consensus, it is still useful to get a sense of the relative importance of various factors. In this context, a recent report by Marie Drolet for Statistics Canada, (2001) is helpful. Her analysis calculates the fraction of the gender pay gap accounted for by a number of factors. Controlling for various factors, she finds that just over half the gender wage gap (51%) is still unexplained. Of all the factors she studied, the three most significant are industry (11.2% of the gap), full-time full-year experience (10.1%), and occupation (8.6%).

The following chart based on Drolet's analysis conveys a sense of the relative importance of the various factors.



[The percentages add up to 100.6% because –0.6 of the gap was attributable to "CMA/urban size" in Drolet's analysis.]

According to Drolet, after all known factors are accounted for, there is still a gender wage gap of 10.6%. This means that if we were able to implement initiatives to eliminate all the listed causes of sex-based wage disparities, and if these initiatives did not also affect the unknown portion of the gap, women would still earn, on average, just under 90% of what men earn.

Identifying the various known causes of the gender wage gap and the relative significance of unknown factors does not answer the question of what aspects of the gap ought to be corrected and by whom. In much of the economic literature, those parts of the gap caused by human capital characteristics (that is, wage-determining characteristics personal to the worker) are treated as acceptable reasons for the wage gap in the sense that employers may base differences in pay on such characteristics, even though so doing will adversely affect women more than men.

For most economists, the debate about what to do about the gender wage gap focuses on the portion of the gap whose causes are unknown. Pay equity advocates theorize that most of the cause of the unknown portion of the gap is the undervaluation and undercompensation of women's work by employers, and they propose pay equity as a measure to address it. Some critics of pay equity dispute this assumption. They say that the unknown portion of the gap reflects gender-based differences in workers' preferences about employment, which ought not to trouble us. According to these writers, individuals ought to be free to make their own choices about the terms and conditions of their employment, including gender-based choices that, on average, result in women earning less than men.

My analysis of the gap is somewhat different. It is clear that some causes of the gap are known and others are not. I accept that some portion of the gap, as well as its known causes, reflect individual preferences that ought not to be interfered with. I also accept that part of the gender pay gap and its known causes reflect gender stereotypes and discriminatory attitudes and practices. It follows that this part of the gender pay gap is a problem, and it should be addressed. It is not possible to quantify what proportion of the gap is a problem and what is not, but the lack of such information does not justify inaction. If we accept that the problem exists, then those in a position to address it ought to do so, even if its precise dimensions are not known.

While employers are not solely responsible for the persistence of sex-based wage disparities, they are in a position to reduce them. Employers can reasonably be asked to ensure that known causes of the gap, for example, educational credentials, are only taken into account in their wage determination and other employment processes to the extent that they really are a useful predictor of job performance. (For example, British Columbia's public service job classification system has shifted away from stipulating formal educational credentials and now focuses on designating the specific knowledge and skills required to perform the work.) Similarly, with respect to the unknown portion of the gender pay gap, it is reasonable to assume that, since employers hire and promote workers and set their wages, changing their practices may also affect the unknown portion of the gap. If employers ensure that in their own employment and compensation practices, they do not perpetuate gender stereotypes that detrimentally affect women and that they adopt practices that foster the goal of economic opportunity in their firms, they will be doing all they can reasonably be expected to do in reducing the problematic aspect of sex-based wage disparities.

C. Conclusions on the Dimensions and Causes of the Gender Pay Gap

Measuring sex-based wage disparities and identifying and measuring their causes is far from exact or uncontroversial. For example, differences over what the gap is and how it should be measured, as well as its causes, were evident in many of the submissions I received. For example, one individual took issue with Statistics Canada's calculation of gender pay gaps. In many submissions, individuals and groups relied on different numbers as objective evidence of the size of the gap, usually without reference to the assumptions behind the numbers, or to the existence of other ways of calculating gender pay gaps. A number of the submissions referred to individual choices as a significant cause of the gap. Some were of the view that government ought not to interfere with those choices. Others said government ought to act to encourage women to make more economically remunerative choices. Still others took the position that individual choices are largely the product of discriminatory socio-cultural pressures, and that government must act to correct their adverse influence.

Despite these disagreements, I think that some useful and relatively reliable conclusions about the gender pay gap may be drawn from the literature.

First, any measurement of the gender pay gap is only an estimate, and there is no single estimate of its size. We know with certainty that a gap exists, but a quest for numerical precision is fruitless. Other jurisdictions, such as the Australian states of New South Wales and Queensland, have acknowledged that the gender pay gap cannot be precisely defined, and accepted that precision is not a prerequisite for government action (New South Wales, 1998; Queensland, 2001). I think British Columbia should take the same approach.

Second, different measurements of the gender pay gap reflect different views of the problem. For example, using the gender wage gap rather than the gender earnings gap will remove the gender difference in hours and weeks of work from the scope of discussion. Any one particular measurement of the gap should not be used to the exclusion of others until we are confident that any gender-based differences it overlooks are not part of the problem we want to address. Similarly, we should be wary of explanations of the causes of the gap or arguments in support of particular initiatives to address it that rest on any single measurement of its dimensions.

Third, despite the problems inherent in all measuring of the gender pay gap, there are some features of sex-based wage disparities about which we can be fairly certain. Most researchers agree that:

> a) There is a "gender discount." In other words, as the percentage of women in any job or occupation ("percentage female") increases, wages decrease. The gender discount differs for different jobs or occupations, and it may be non-linear (that is, the size of the gender discount may be different where the percentage female increases from 0-20% than when the change is from 80-100% female). However, there is a clear correlation between an increase in the number of women in a job or occupation and lower wages. Interestingly, the negative effect on wages for female jobs is greater for the men in those jobs than it is for the women in them.
>
> b) There is unequal pay for equal or similar work. Women typically earn less than men in the same job or occupation, even when other factors (age, education, job tenure, experience and so on) are the same.
>
> c) There is unequal access to better work (higher status and higher paying). All other factors being the same, women are more likely to work in lower paid jobs than men.

Fourth, the gender pay gap is persistent. Over time and across and within countries, regardless of how it is measured or what characteristics are controlled for, there is a gender pay gap. There is no evidence to suggest that it is a temporary or local phenomenon, although its dimensions vary with time, place and many other factors. Although the gender pay gap has decreased significantly over the last 50 years, since 1992 it has remained relatively constant.

Fifth, a number of characteristics are known to contribute to the gender pay gap. Some of these characteristics are related to the worker, and others to the job. For example, it is generally agreed that some part of the gender pay gap arises because women have had less formal education and enter different fields of study than men, their marital and family status has a negative effect on their earnings, they work fewer hours and have less work experience and job tenure than men (personal wage determining characteristics). It is also generally agreed that, among other things, women tend to work for smaller firms, are less likely to be represented by unions, and tend to work in lower-paying industries and occupations than men (job-related wage determining characteristics). To some unknown extent, each of these factors may be the product of discriminatory attitudes or practices. Studies vary widely in their calculation of how much of the gap is attributable to various wage-determining characteristics. This means that we know some of the reasons for the gap, but cannot accurately determine how much of the gap is attributable to each cause.

Sixth, a very substantial portion of the gender pay gap cannot be explained by known factors. Studies vary in their estimates of how much of the gender pay gap is unexplained, but all studies estimate at least half and, more commonly, three-quarters of the gap is unexplained by wage-determining characteristics (Baker, 1995; Christofides, 1994; Coish and Hall, 1995; Drolet, 2001). Some of the unknown portion of the gap is a problem that ought to be corrected, and some part of it is not.

Bearing in mind these general conclusions about the dimensions and reasons for sex-based wage disparities, along with an appreciation of how they arose and their social and economic impacts, I now turn to consider what legal responses have been framed to address them.

II. LEGAL FRAMEWORK GOVERNING RESPONSES TO SEX-BASED WAGE DISPARITIES

A. International

Canada's obligations as a participant in the international community are not new. Although the federal government has the exclusive power to ratify international conventions, it does not have the power to enact legislation with respect to matters falling within provincial jurisdiction to comply with the international obligations it has assumed. While ratifying international conventions does not create the same kind of compliance obligation on a country that enacting domestic legislation creates on citizens who are subject to that law, important gains, both symbolic and real, towards gender equality have been made at the international level. Canada has prided itself - and has been regarded by other countries - as being a leader in equality thinking and in redressing discrimination with respect to gender as well as other grounds. Many of the submissions I received cited Canada's international obligations as important reasons for British Columbia to enact pay equity legislation or other measures to achieve economic equality in employment for women. Failing to advance international commitments by not undertaking initiatives that advance women's equality of economic opportunity in employment in British Columbia hurts both the women of this province and the nation as a whole in the eyes of the international community. British Columbia has the opportunity to demonstrate leadership in the area of women's economic equality by taking innovative steps to realize this goal, consistent with the international obligations outlined below.

1. International Covenant on Economic, Social and Cultural Rights

The *International Covenant on Economic, Social and Cultural Rights* (*CESCR*) was adopted by the United Nations in 1966 and ratified by Canada in 1976. It is one of the three core international human rights documents (the other two being *the Universal Declaration of Human Rights* and the *International Covenant on Civil and Political Rights*) which together comprise the *International Bill of Rights*. By ratifying *CESCR*, Canada committed itself to take active steps to realize the rights it contains. Article 7 of the *CESCR* addresses work:

> Article 7:
>
> The States Parties to the present Covenant recognize the right of everyone to the enjoyment of just and favourable conditions of work which ensure, in particular:
>
> (a) Remuneration which provides all workers, as a minimum, with:
>
> (i) Fair wages and equal remuneration for work of equal value without distinction of any kind, in particular women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work;
>
> (ii) A decent living for themselves and their families in accordance with the provisions of the present Covenant;

> (b) Safe and healthy working conditions;
>
> (c) Equal opportunity for everyone to be promoted in his employment to an appropriate higher level, subject to no considerations other than those of seniority and competence;
>
> (d) Rest, leisure and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays.

In December 1998, the United Nations Committee on Economic, Social and Cultural Rights reviewed Canada's report on its compliance with *CESCR*. It criticized Canada for failing to adequately protect Canadian women from wage discrimination:

> The Committee is also concerned about the inadequate legal protection in Canada of women's rights which are guaranteed under the Covenant, such as the absence of laws requiring employers to pay equal remuneration for work of equal value in some provinces and territories, restricted access to civil legal aid, inadequate protection from gender discrimination afforded by human rights laws and the inadequate enforcement of those laws.

The Committee urged Canada, "to adopt the necessary measures to ensure the realization of women's economic, social and cultural rights, including the right to equal remuneration for work of equal value." (See *Concluding Observations of the Committee on Economic, Social and Cultural Rights: Canada* 10/12/98: paras. 16 and 53.)

2. *Convention on the Elimination of All Forms of Discrimination against Women*

The *Convention on the Elimination of All Forms of Discrimination against Women* (*CEDAW*) was adopted by the United Nations in 1979 and ratified by Canada in 1981. It is a comprehensive bill of rights for women which has now been taken up and refined in the Beijing Platform for Action (see below). By ratifying *CEDAW*, Canada committed itself, among other things, to take legislative and other measures including sanctions, where appropriate, and to create administrative structures and public institutions to eliminate all discrimination against women, whether in law or in customs or practices (Article 2). Articles 11.1 and 11.2 address various aspects of employment:

> States Parties shall take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality of men and women, the same rights, in particular:
>
> (a) The right to work as an inalienable right of all human beings;
>
> (b) The right to the same employment opportunities, including the application of the same criteria for selection in matters of employment;

> (c) The right to free choice of profession and employment, the right to promotion, job security and all benefits and conditions of service and the right to receive vocational training and retraining, including apprenticeships, advanced vocational training and recurrent training;
>
> (d) The right to equal remuneration, including benefits, and to equal treatment in respect of work of equal value, as well as equality of treatment in the evaluation of the quality of work;
>
> (e) The right to social security, particularly in cases of retirement, unemployment, sickness, invalidity and old age and other incapacity to work, as well as the right to paid leave;
>
> (f) The right to protection of health and to safety in working conditions, including the safeguarding of the function of reproduction.
>
> 2. In order to prevent discrimination against women on the grounds of marriage or maternity and to ensure their effective right to work, States Parties shall take appropriate measures:
>
> (a) To prohibit, subject to the imposition of sanctions, dismissal on the grounds of pregnancy or of maternity leave and discrimination in dismissals on the basis of marital status;
>
> (b) To introduce maternity leave with pay or with comparable social benefits without loss of former employment, seniority or social allowances;
>
> (c) To encourage the provision of the necessary supporting social services to enable parents to combine family obligations with work responsibilities and participation in public life, in particular through promoting the establishment and development of a network of child-care facilities;...

3. *International Labour Organization Convention 100*

The ILO is an agency of the United Nations. It was founded in 1919 to promote social justice and international recognition of human and labour rights. The ILO formulates international minimum standards of basic labour rights regulating conditions of work. Member countries, including Canada, commit themselves to adhering to these standards in their domestic laws and practices by ratifying ILO conventions. In 1953, ILO Convention No. 100, the *Convention Concerning Equal Remuneration for Men and Women of Work of Equal Value* came into force. Canada ratified this Convention in 1972. The essence of the Convention is contained in Articles 1 and 2. They provide:

> Article 1
>
> For the purpose of this Convention - -

(a) the term *remuneration* includes the ordinary, basic or minimum wage or salary and any additional emoluments whatsoever payable directly or indirectly, whether in cash or in kind, by the employer to the worker and arising out of the worker's employment;

(b) the term *equal remuneration for men and women workers for work of equal value* refers to rates of remuneration established without discrimination based on sex.

Article 2

1. Each Member shall, by means appropriate to the methods in operation for determining rates of remuneration, promote and, in so far as is consistent with such methods, ensure the application to all workers of the principle of equal remuneration for men and women workers for work of equal value.

2. This principle may be applied by means of –

(a) national laws or regulations;

(b) legally established or recognized machinery for wage determination;

(c) collective agreements between employers and workers; or

(d) a combination of these various means.

4. Beijing Platform for Action

In 1995, the United Nations Fourth Conference on Women was held in Beijing, China. The countries participating in that conference issued the *Beijing Declaration and Platform for Action* (*PFA*) which set out a comprehensive global strategy for achieving gender equality in all spheres of life. Building on *CEDAW*, and on the UN conference on women in Nairobi in 1985, the *PFA* recognized that the persistence of gender inequality is detrimental to all peoples, and unequivocally committed its national participants to achieving gender equality. The *PFA* identified 12 critical areas of concern, including women and the economy. In respect of each of these 12 areas, the *PFA* sets out a diagnosis of the problem and a series of strategic objectives towards redressing it. The strategic objectives for women and the economy are:

- Strategic objective F.1. Promote women's economic rights and independence, including access to employment, appropriate working conditions and control over economic resources.
- Strategic objective F.2. Facilitate women's equal access to resources, employment, markets and trade.
- Strategic objective F.3. Provide business services, training and access to markets, information and technology, particularly to low-income women.
- Strategic objective F.4. Strengthen women's economic capacity and commercial networks.

- Strategic objective F.5. Eliminate occupational segregation and all forms of employment discrimination.
- Strategic objective F.6. Promote harmonization of work and family responsibilities for women and men.

Strategic Objective F5 is of particular relevance to this report, in that it is directly aimed at women's economic equality in employment. The 16 actions outlined as necessary to achieve this objective are worth reading. They illustrate the many dimensions of the problem and show that a multi-faceted approach is essential to make meaningful progress towards resolving it. It is also noteworthy that, unlike some of the other steps outlined in relation to women and the economy, the steps under this strategic objective must be taken by a number of actors in both public and private sectors, signaling the need for shared responsibility and ownership of these issues.

178. By Governments, employers, employees, trade unions and women's organizations:

a. Implement and enforce laws and regulations and encourage voluntary codes of conduct that ensure that international labour standards, such as International Labour Organization Convention No. 100 on equal pay and workers' rights, apply equally to female and male workers;

b. Enact and enforce laws and introduce implementing measures, including means of redress and access to justice in cases of non-compliance, to prohibit direct and indirect discrimination on grounds of sex, including by reference to marital or family status, in relation to access to employment, conditions of employment, including training, promotion, health and safety, as well as termination of employment and social security of workers, including legal protection against sexual and racial harassment;

c. Enact and enforce laws and develop workplace policies against gender discrimination in the labour market, especially considering older women workers, in hiring and promotion, and in the extension of employment benefits and social security, as well as regarding discriminatory working conditions and sexual harassment; mechanisms should be developed for the regular review and monitoring of such laws;

d. Eliminate discriminatory practices by employers on the basis of women's reproductive roles and functions, including refusal of employment and dismissal of women due to pregnancy and breast-feeding responsibilities;

e. Develop and promote employment programmes and services for women entering and/or re-entering the labour market, especially poor urban, rural and young women, the self-employed and those negatively affected by structural adjustment;

f. Implement and monitor positive public- and private-sector employment, equity and positive action programmes to address systemic discrimination against women in the labour force, in particular women with disabilities and women belonging to other disadvantaged groups, with respect to hiring, retention and promotion, and vocational training of women in all sectors;

g. Eliminate occupational segregation, especially by promoting the equal participation of women in highly skilled jobs and senior management positions, and through other measures, such as counseling and placement, that stimulate their on-the-job career development and upward mobility in the labour market, and by stimulating the diversification of occupational choices by both women and men; encourage women to take up non-traditional jobs, especially in science and technology, and encourage men to seek employment in the social sector;

h. Recognize collective bargaining as a right and as an important mechanism for eliminating wage inequality for women and to improve working conditions;

i. Promote the election of women trade union officials and ensure that trade union officials elected to represent women are given job protection and physical security in connection with the discharge of their functions;

j. Ensure access to and develop special programmes to enable women with disabilities to obtain and retain employment, and ensure access to education and training at all proper levels, in accordance with the Standard Rules on the Equalization of Opportunities for Persons with Disabilities; adjust working conditions, to the extent possible, in order to suit the needs of women with disabilities, who should be assured legal protection against unfounded job loss on account of their disabilities;

k. Increase efforts to close the gap between women's and men's pay, take steps to implement the principle of equal remuneration for equal work of equal value by strengthening legislation, including compliance with international labour laws and standards, and encourage job evaluation schemes with gender-neutral criteria;

l. Establish and/or strengthen mechanisms to adjudicate matters relating to wage discrimination;

m. Set specific target dates for eliminating all forms of child labour that are contrary to accepted international standards and ensure the full enforcement of relevant existing laws and, where appropriate, enact the legislation necessary to implement the Convention on the Rights of the Child and International Labour Organization standards, ensuring the protection of working children, in particular, street children, through the provision of appropriate health, education and other social services;

n. Ensure that strategies to eliminate child labour also address the excessive demands made on some girls for unpaid work in their household and other households, where applicable;

o. Review, analyze and, where appropriate, reformulate the wage structures in female-dominated professions, such as teaching, nursing and child care, with a view to raising their low status and earnings;

p. Facilitate the productive employment of documented migrant women (including women who have been determined refugees according to the 1951 Convention relating to the

Status of Refugees) through greater recognition of foreign education and credentials and by adopting an integrated approach to labour market training that incorporates language training.

The *PFA* included provision for international scrutiny of national progress in implementing its measures. One of these review mechanisms was a five-year review by the UN General Assembly of each country's progress. With respect to women and the economy, Canada's five year report described the persistence of the gender wage gap and the continued over-representation of women in "the traditionally "female dominated" occupations of teaching, nursing and health-related occupations, clerical positions, or sales and services, all of which tend to pay less than male-dominated occupations." It noted the growing number of female part-time workers who are working part-time because they cannot find full-time work, and reported that women find it more difficult than men to move out of low-income jobs over time. Canada's report also underscored the ongoing adverse economic impact of Canadian women's disproportionate share of unpaid work. This portion of the report concluded with a warning that reducing "gender gaps in income and earnings will require that solutions be sought both within and outside of the labour market." (See *Canada's National Response to the UN Questionnaire on Implementation of the Beijing* *Platform for Action* 1999: 39).

5. Summary of Canada's international obligations

The various international instruments set out above oblige Canada to achieve gender equality in compensation. This means more than legislative protection for equal pay for equal work. The international agreements Canada has signed recognize that unfairness in compensation can also arise out of dissimilar work, and commit signatory countries to taking steps to identify and eliminate such unfairness. However, these international commitments do not specify pay equity legislation as the means by which the goal of gender equality in compensation need be achieved.

A few jurisdictions have taken very different approaches to achieving the goal of equality of economic opportunity for men and women and reducing the gender pay gap. For example, the Netherlands, which has the largest gender wage gap among countries in the European Union, has tried to reduce sex-based wage disparities by changing the distribution of unpaid work. The Dutch strategy is to shorten the standard full-time work week and provide strong government-funded economic support for caring working through the tax system, as well as other policies. The target date for this strategy to achieve its goal is 2010 (Figart and Mutari, 2000). It will be interesting to see its results.

Australia partially addresses the gender pay gap through its centralized wage determination system and higher unionization rates. Occupation-specific minimum wages are set at both federal and state levels by industrial tribunals through conciliation and compulsory arbitration. However, although it is smaller in Australia than in many other countries, the gender pay gap persists. Comprehensive inquiries into the reasons for the persistence of the gap have been conducted by states such as New South Wales and Queensland. New South Wales understood the importance of avoiding a unidimensional universal approach to the gender wage gap and found that it was vital to take a case by case approach to pay equity. It concluded that the best way to deal with sex-based wage inequalities was within its existing industry-based wage determination system. It also advocated using a variety of initiatives (including wage comparisons and employment equity measures, among other things) to address gender-based economic inequalities within particular industries (New South Wales, 1998).

In summary, Canada has longstanding international obligations to achieve equality of economic opportunity for men and women and, in particular, to eliminate gender-based discrimination in compensation. While pay equity legislation may be one step along the way, it is neither the only nor a necessary step to achieve this goal, from the perspective of our international obligations. I believe the recommendations in this report are consistent with Canada's obligations in the international arena.

B. Domestic Laws and Policies

Pay equity is just one of a number of mechanisms which can enhance women's economic opportunities in employment, and thereby affect the gender pay gap. Many of the submissions emphasized that the gender pay gap can only be effectively addressed by a package of measures. No single initiative will "solve" the problem. Below, I set out some of the existing federal and provincial initiatives that assist women in British Columbia to achieve equality of economic opportunity with men, particularly in the sphere of employment. These initiatives form an important part of the background context for considering what new initiatives, including private sector pay equity, British Columbia might wish to implement.

1. Human rights legislation

Human rights legislation exists in every Canadian jurisdiction. In British Columbia, it is contained in the *Human Rights Code*, which prohibits discrimination in many spheres of activity on a number of enumerated grounds. Of particular relevance here is the ground of sex or gender, although all of the protected grounds can apply to women (race, religion, sexual orientation, disability, and so on). The ground of discrimination because of sex has been interpreted to include protection against discrimination because of pregnancy and to prohibit sexual harassment. The grounds of marital status and family status have also been important in protecting women from discrimination at work. For example, the ground of family status may require employers to change their practices with respect to shift allocation and hours of work to accommodate a women's child care responsibilities in certain circumstances, although the scope of this obligation is yet to be clearly defined. The prohibitions on discrimination in employment (s. 13), in wages (s.12), in employment advertisements (s. 11), and by trade unions, employers' associations or occupational associations (s. 14) are also relevant to the present context.

The rights contained in the *Human Rights Code* are enforced on a complaints-based model. An individual or group (or, if he so chooses, the Deputy Chief Commissioner of the Human Rights Commission) files a complaint with the BC Human Rights Commission. The Commissioner of Investigation and Mediation investigates the complaint and decides whether to dismiss it, settle it informally or refer it to the BC Human Rights Tribunal for hearing. The process can be cumbersome and time-consuming (see generally, Lovett and Westmacott, 2001).

The courts have held that human rights codes contain very fundamental, "quasi-constitutional" rights that should be interpreted broadly. Any other legislation or requirement that conflicts with a right in human rights legislation has no force or effect to the extent of the conflict. It is not possible to contract out of the rights contained in human rights legislation. In particular, employment contracts and collective agreements are subject to human rights laws and must be interpreted so as to accord with them. The two most important human rights protections for women in employment are the prohibition on discrimination in employment (s. 13) and the guarantee of equal wages (s. 12).

a) Prohibition against sex discrimination in employment

Section 13 of the *Human Rights Code* reads:

> **13. Discrimination in employment – (1)** A person must not
> (a) refuse to employ or refuse to continue to employ a person, or
> (b) discriminate against a person regarding employment or any term or condition of employment
>
> because of the race, colour, ancestry, place of origin, political belief, religion, marital status, family status, physical or mental disability, sex, sexual orientation or age of that person or because that person has been convicted of a criminal or summary conviction offence that is unrelated to the employment or the intended employment of that person.
>
> **(2)** An employment agency must not refuse to refer a person for employment for any reason mentioned in subsection (1).
>
> **(3)** Subsection (1) does not apply
> (a) as it relates to age, to a bona fide scheme based on seniority, or
> (b) as it relates to marital status, physical or mental disability, sex or age, to the operation of a bona fide retirement, superannuation or pension plan, or to a bona fide group or employee insurance plan.
>
> **(4)** Subsections (1) and (2) do not apply with respect to a refusal, limitation, specification or preference based on a bona fide occupational requirement.

While a comprehensive review of the interpretation of this provision is beyond the scope of this report, some points are worth noting. First, employers are liable for discrimination that occurs in their workplaces, whether or not management was aware of or condoned the discriminatory conduct. This creates an incentive for employers to adopt policies and practices to prevent discrimination, and to act to rectify any discrimination that occurs.

Second, discrimination includes direct discrimination, that is, a rule or practice that overtly discriminates (for example, an employer policy of only hiring men for a job) and indirect or "adverse effect" discrimination, where a rule or practice that is facially neutral has the effect of treating women adversely (for example, a requirement that applicants for a particular job be of a certain height). An employer may try to justify a practice or policy that would otherwise constitute sex discrimination by saying it is a *bona fide* occupational requirement. However, to succeed, the employer must show that its rule was adopted in good faith, is rationally connected to the employer's business needs, and that the employer cannot alter or create exceptions to the rule without incurring undue hardship.

Third, this general prohibition on sex discrimination in employment includes complaints of systemic sex discrimination in employment, and can result in remedial orders to implement employment equity measures and/or pay equity analyses (see *Action Travail des Femmes; Nishimura v. Ontario (Human Rights Commission*). However, the vast majority of complaints made under this section are individual in nature. Most of these allege sexual harassment, and do not raise issues of systemic sex discrimination in compensation or inequitable access to workplace opportunities.

b) Equal pay for equal work

Every Canadian jurisdiction has a provision guaranteeing "equal pay for equal work" to male and female workers. Sometimes these protections are found in the jurisdiction's human rights law, otherwise they appear in employment standards legislation. The precise phrasing and scope of these protections differ, but they all aim to guarantee equal pay for men and women who perform the same type of work for an employer.

Section 12 of the BC *Human Rights Code* provides:

> **12. Discrimination in wages** **(1)** An employer must not discriminate between employees by employing an employee of one sex for work at a rate of pay that is less than the rate of pay at which an employee of the other sex is employed by that employer for similar or substantially similar work.
>
> **(2)** For the purposes of subsection (1), the concept of skill, effort and responsibility must, subject to factors in respect of pay rates such as seniority systems, merit systems and systems that measure earnings by quantity or quality of production, be used to determine what is similar or substantially similar work.
>
> **(3)** A difference in the rate of pay between employees of different sexes based on a factor other than sex does not constitute a failure to comply with this section if the factor on which the difference is based would reasonably justify the difference.
>
> **(4)** An employer must not reduce the rate of pay of an employee in order to comply with this section.
>
> **(5)** If an employee is paid less than the rate of pay to which the employee is entitled under this section, the employee is entitled to recover from the employer, by action, the difference between the amount paid and the amount to which the employee is entitled, together with the costs, but
>
> (a) the action must be commenced no later than 12 months from the termination of the employee's services, and
>
> (b) the action applies only to wages of an employee during the 12 month period immediately before the earlier of the date of the employee's termination or the commencement of the action.

Critics of s. 12 argue that it does not provide any greater protection than that already contained in s. 13 of the *Human Rights Code*. There is some uncertainty as to the relationship between the two provisions, and some of the complaints made under s. 12 also refer to s. 13. While s. 13 might include some concept of pay equity, in that failing to pay equally for work of equal value may be found to be discriminatory, s. 12 clearly does not. Section 12's express requirement that the work in issue be similar means that it cannot encompass the kind of comparison of dissimilar jobs that pay equity requires.

Although s. 12 only encompasses similar work, if properly interpreted and enforced, it could address an important part of discrimination in compensation. A complaint under s. 12 requires an employer to justify differences in wage rates on the basis of substantive differences in the skill, effort and responsibility associated with a job, or on the basis of other factors, such as performance or seniority. This requires the employer to examine its internal wage-setting processes and the assumptions upon which they are based.

Perhaps the most distinctive feature of s. 12 is its underuse. The submission of the BC Human Rights Commission reports that 50 s. 12 complaints have been filed with it since 1997. (By contrast, approximately 200 s. 13 complaints of sex discrimination in employment were filed in 2001 alone). Roughly half of the s. 12 complaints were dismissed; the others were mostly settled or withdrawn. Only two were referred to the Tribunal for hearing, and both of these were dismissed. Most of the complaints were against private sector employers.

It is possible that the very low number of formal complaints under s. 12 of the *Human Rights Code* in British Columbia means that unequal pay for equal work is not a serious problem in this province. However, based on my research and discussions, I believe the problem is likely much greater than the number of formal complaints indicates.

The experience in Ontario suggests that unequal pay for equal work remains a serious problem in British Columbia's workplaces. Surveys in Ontario show that firms that do not employ formal systems of wage determination, such as job evaluation and salary scales, are more likely to pay men and women differently for similar work. Sometimes this is because present salaries are set on the basis of previous salaries, perpetuating differences in pay that arose in the past because of gender stereotypes. Such problems may also arise in very small firms with little job segregation or in firms where people are performing very similar work under different job titles. One Ontario expert with whom I spoke suggested that vigorous enforcement of equal pay for equal work would accomplish far more than pay equity in such firms.

Equal pay for equal work contraventions also arise in large, unionized employers. Last year, two Ontario universities, the University of Toronto and York University, were the subject of very public unequal pay for equal work complaints for allegedly paying female faculty members less than male professors (*The Globe & Mail* editorial, November 13, 2001; York University Faculty Association, October 9, 2001). The University of Toronto case is also noteworthy because it raises the issue of the consequences of lower pay when women retire: the wage gap becomes a significant pension gap. During my research, I heard similar concerns expressed about professors' salaries in British Columbia.

The Ontario publicity campaign launched to raise awareness about pay equity when the *Pay Equity Act* was enacted resulted in many inquiries and complaints that were actually about equal pay for equal work violations, not about dissimilar jobs. Women did not know their rights or did not act on these violations until they saw the poster with a phone number in the bus shelter or another public place. Ontario pay equity lawyers and others told me that they believe unequal pay for equal work is still a significant problem in that province.

In my view, there is no reason to believe that the situation is any different in British Columbia. The right to equal pay for equal work and the prohibition against sex discrimination in employment in s. 13 both represent important initiatives to address parts of the gender wage gap. Quite apart from pay equity, it is necessary to effectively enforce both of these rights to create the conditions under which women can attain economic equality in employment.

2. *Employment standards legislation*

All Canadian jurisdictions have enacted employment standards laws which contain minimum standards for the terms and conditions of employment, including minimum wages, hours of work, overtime, vacation entitlements, statutory holidays, certain leaves, and termination of employment. In British Columbia, these provisions are found in the *Employment Standards Act*. The *Employment Standards Act* provides minimum standards for most provincially-regulated workplaces in British Columbia, with some exceptions (for example, it does not apply to self-regulated professionals). Simply by creating minimum requirements for all workers, the statute goes some way to achieving at least a minimum standard of gender equality in employment. Some of its provisions specifically aim to protect female workers or are likely most beneficial to them. Most notable among these are the statutory leave provisions and the establishment of minimum wages.

Section 50 of the *Employment Standards Act* provides for pregnancy leave, s. 51 provides for parental leave, and s. 52 provides for family responsibility leave. The periods of pregnancy and parental leave coincide with the periods during which federal Employment Insurance benefits may be paid for maternity, parental or adoption leaves, and were recently increased to one year to match an increase in benefits under the federal law. The family responsibility leave in s. 52 allows an employee to take up to five days of unpaid leave each year to meet a child's health, care, or education needs, or to provide for the care or health of another family member.

Employers must provide such leaves on the request of an employee and must maintain that employee's "status quo" with respect to employment while he or she is on leave. That is, the employee must be treated as he or she would have been had the leave of absence not been taken. These provisions protect women's job security and access to employment benefits over periods when they temporarily leave active work due to pregnancy, birth and infant care, or short-term family responsibilities. They are important acknowledgments of women's disproportionately greater role in child bearing and child care, and they have had a significant positive impact on women's labour force participation.

The minimum wage for most workers in British Columbia is set by regulation to the *Employment Standards Act*. Minimum wage rates are generally considered to have a disproportionate impact on women's earnings, as more women than men work in minimum wage jobs. Fixing the minimum wage rate is always controversial, even from the perspective of improving women's economic security. Proponents of higher minimum wages point to the need to ensure that the minimum wage provides an adequate standard of living; opponents point to the disemployment effects of raising the minimum wage, particularly in labour-intensive industries, where the success of a business is closely related to its ability to control its labour costs (see generally, B.C. Ministry of Labour, 2000).

Currently, at $8.00 per hour, British Columbia has the highest minimum wage in Canada. However, a lower minimum wage applies to employees hired on or after November 15, 2001 who cannot show that they have prior paid work experience of any kind. The minimum wage rate for such employees is $6.00 per hour for their first 500 hours of paid work.

3. Labour codes and collective bargaining

All provinces in Canada and the federal sector have labour relations statutes which regulate the relationship between trade unions and employers and between trade unions and those they represent. These statutes permit applications for certification by trade unions, recognize the status of certified trade unions as the exclusive bargaining agent for employees in the bargaining unit represented by the union, and require a certified employer to engage in collective bargaining with the trade union. They also confer upon the parties to the collective bargaining relationship certain associated rights and obligations, such as the right to strike or lockout in specified circumstances, the obligation to provide for arbitration of grievances, the duty of fair representation on the part of the union, and the duty to abide by the terms of the collective agreement entered into between the parties.

Until recently, unionization did not significantly benefit women working in the private sector. In part, this was because of the very low rate of unionization in the services sector, where most women work, as compared to the greater prevalence of unions in the goods-producing sector. Traditionally male-dominated unions did not always easily or whole-heartedly advocate for initiatives to improve women's economic equality. Trade unions have increased their presence in the services sector, particularly in the hospitality and retail subsectors. However, the level of unionization across the whole of the private sector is just under 20% (with a much higher rate in the goods-producing sector than the services sector), and has been declining over the past few decades.

Across Canada, the public sector is highly unionized, including in female-dominated areas such as teaching, nursing, community care, and the public service. Most public sector collective agreements contain detailed job evaluation systems, often developed with the participation of the unions. As a result, their compensation practices are more transparent and more amenable to pay equity analyses than in workplaces without such systems.

4. Employment equity

a) Federal employment equity program

Currently, the only employment equity legislation that includes private sector employers is the federal *Employment Equity Act*. It applies to federally regulated private sector employers with more than 100 employees, and to most federal public sector employers.

The *Employment Equity Act* requires employers to implement employment equity by (a) identifying and eliminating employment barriers against persons in designated groups that result from the employer's employment systems, policies, and practices that are not authorized by law, and (b) instituting positive policies and practices to ensure that persons in designated groups are represented within each occupational group in the employer's workforce in numbers that reflect their representation in the Canadian workforce, or that part of the workforce from which the employer could be reasonably expected to draw its employees. The designated groups are aboriginal peoples, members of visible minorities, persons with disabilities, and women.

Employers must first analyze their workforce to determine the representation of designated groups in it and to identify employment barriers. Next, they must develop an employment equity plan that sets out what policies and practices the employer will introduce to recruit and hire members of designated groups, and to eliminate employment barriers. The employment equity plan must include timelines for achieving the desired representation of designated groups.

Private sector employers must file annual public employment equity reports, reporting on the composition of their workforce, and how they are progressing towards employment equity. Penalties may be imposed for failing to file a report.

The Canadian Human Rights Commission is responsible for ensuring compliance with the *Employment Equity Act*. It conducts compliance audits of employers, and can issue directions to employers who are not taking reasonable steps to comply with the statute. The Employment Equity Review Tribunal resolves disputes between employers and the Commission; however, recourse to the Tribunal is extremely rare, as the staff in the Employment Equity branch of the Canadian Human Rights Commission see their role as assisting employers to comply with the legislation, rather than taking proceedings against them. For their part, employers generally receive substantial assistance from Commission staff, and tend to believe that taking a disagreement with the Commission to the Tribunal will not be advantageous to them.

b) Federal Contractors Program

The coverage of private sector employers by the *Employment Equity Act* is effectively extended through the Federal Contractors Program for Employment Equity. Under this Program, any employer (whether federally or provincially regulated) that has over 100 employees and wants to bid on a federal government contract of $200,000 or more must implement an employment equity program. As federal government contracts are an important source of business for many employers, this is an effective means of extending the reach of federal employment equity law into the provincial private sector.

c) Federal public sector gender analysis program

The federal government has recently instituted a mandatory analysis of the gender impact of all terms and conditions of employment in all federal government departments and agencies. The administering agency is the Gender-based Analysis Directorate, which was established in 1999. The Directorate assists other federal departments and agencies in developing and carrying out the analysis. The results of these gender-based analyses will be used to help to further refine employment equity and other gender equity initiatives in the federal public service.

d) Provincial employment equity programs

No Canadian province currently has employment equity legislation that applies to private sector employers. Virtually all provincial governments have employment equity policies that apply to the public service and to some or all provincial crown corporations or agencies. Among the provinces, only British Columbia has implemented what could be considered "legislated" public sector employment equity, through the Employment Equity Policy Directive (Directive).

The Directive applies to all persons appointed to the provincial public service under the *Public Service Act*. Much like the federal *Employment Equity Act*, the Directive aims to ensure that members of four designated groups (aboriginal peoples, persons with disabilities, visible minorities and women) are proportionately represented at all levels within the provincial public service, as compared to their distribution within the population of British Columbia.

The Directive requires the government of British Columbia to maintain a profile of the representation of the designated groups within the public service. Individual ministries, together with the Public Service Employee Relations Commission (PSERC), must identify any employment barriers to members of designated groups, and propose methods to eliminate those barriers or accommodate members of designated groups. Ministries are required to redress any employment imbalances and disadvantages by actively recruiting underrepresented groups, and providing career counseling, mentoring, training and other developmental opportunities. Where there is serious underrepresentation of one or more groups at a particular level of the public service, preferences in job competitions at that level may be granted to members of that group or groups. A ministry in which a particular group is seriously underrepresented must develop an action plan to address the problem. Such plans must be reviewed and updated on an ongoing basis.

At 56.1% of regular employees, women are over-represented within the public service as a whole, as compared with their representation in the general British Columbia workforce of 47%. However, women continue to be seriously underrepresented at managerial levels within the provincial public service (29.2%), and in certain traditionally male-dominated ministries, such as the Ministry of Forests and the Ministry of Transport.

5. *Tax measures*

Federal and provincial governments have introduced a number of tax-based incentives designed to assist women in re-entering or remaining in the workforce, and to offset some of the costs of childcare. These tax incentives include the following benefits.

a) Federal Child Care Expense deduction

The federal child care expense deduction allows single-parent families or two-parent families where both parents work outside the home to deduct child care expenses incurred to earn income, to a maximum of $7,000 per year for children under the age of seven and $4,000 for children aged 7 to 16.

b) The Equivalent to Married credit

This tax credit allows a single-parent income earner to claim a tax credit for a dependent child under 18, a dependent parent, or a dependent grandparent.

c) Education tax deductions

Education tuition and fees are tax deductible. In addition, all tax payers are eligible for a tax credit of $400 for each month of full-time attendance at a post-secondary educational institution, and $120 for each month of part-time attendance.

d) Canada Child Tax Benefit

The Canada Child Tax Benefit provides a tax-free monthly payment to eligible low income and moderate income families to help with child-rearing costs for children under age 18. The payment goes to the primary child-rearing parent. For the 2001 tax year, the basic benefit is $93.08 per month per child, with a supplement for children under age seven. Low income families may also receive the National Child Benefit Supplement, which can provide $80 - $100 more per month per child.

e) GST tax credit

Low income earners are eligible for the GST tax credit. Like other tax benefits for low income earners, this benefit disproportionately benefits women, particularly female single parents, as they are more likely to be low income earners than men or male single parents.

f) Provincial tax credits

All provinces, including British Columbia, provide tax credits for low income earners. Currently in British Columbia, persons earning up to about $8,000 do not pay provincial taxes. Other provinces have significantly higher tax exempt income levels, such as Alberta, at approximately $12,000.

g) Child care subsidies

Lower income families in British Columbia are eligible for subsidies to offset child care costs. In British Columbia, these subsidies are available under the *BC Benefits (Child Care) Act* and/or the *Child Care (BC) Act*. Eligibility requirements and subsidy amounts are currently changing, as funding is reduced (*Vancouver Sun*, January 25, 2002).

6. Employment insurance

a) Maternity, parental and adoption benefits

Effective January 1, 2001, federal Employment Insurance benefits for maternity, parental and adoption leave were increased to provide a total benefit period of up to 52 weeks with respect to the birth or adoption of a child. This means that, subject to meeting the statutory eligibility requirements, the birth mother (for maternity benefits) or either parent (for parental or adoption benefits) receives 55% of his or her averaged insurable earnings to a statutory maximum of $413 weekly for the duration of the leave. Some low income families may receive a greater benefit. As described above, provincial employment standards laws guarantee job security during these leave periods.

b) Hours-based calculation of Employment Insurance benefits

In 1996-97, the calculation of entitlement to Employment Insurance benefits was changed from a system based on weeks of eligible earnings to an hours-based system. The purpose of the change was to ensure that part-time workers and those who work for multiple employers have equitable access to these benefits. Since women disproportionately fall into these categories, the change arguably benefits them. The government has said that, in 1997, 270,000 employees who were not previously eligible for benefits became eligible to receive them. (Kosteriva, 2000) However, the new eligibility requirements are currently being challenged on the basis that they discriminate against women (*Lesiuk v. Canada*, March 22, 2001).

c) Benefits during retraining

Eligible claimants may receive Employment Insurance benefits while taking retraining, upgrading, or small business management programs. The Employment Insurance Commission also provides loans to assist claimants to engage in retraining programs, and can enter into agreements with employers to subsidize wages for new employees or persons reentering the workforce. Some of these programs are targeted specifically at women who have collected maternity or parental benefits in the previous five years, and include child care support during job search and placement.

7. Non-legislative measures

a) Public sector pay equity policies

Most provinces that do not have private sector pay equity legislation have pay equity legislation or policies that apply to their public sectors.

In British Columbia, the Public Sector Employers' Council (PSEC) administers a pay equity policy that applies to the public service and to much of the broader public sector, including health, education, colleges, universities and crown corporations. Municipalities are excluded from the policy.

The PSEC Pay Equity Policy states that it is designed to provide "a progressive option to establishing and maintaining pay equity through ongoing links with an overall compensation and human resource strategy developed by the Public Sector Employers' Council". It provides a structured framework for the development of pay equity policies within each sector of the public service. It sets out general, universally applicable principles and also defines technical guidelines and requirements specific to the needs of each sector.

The Pay Equity Policy requires that all public sector employees be covered by a pay equity program. A program may cover a subset of employees within a particular employer, a multi-employer group, or the whole of a sector or sub-sector. It imposes a duty on every public sector employer to work jointly with employee representatives to identify systemic gender discrimination in wages as between female-dominated and male-dominated jobs or job classes, develop and implement an approved plan or plans that will, over time, eliminate undervaluation of female job classes, and maintain pay equity through subsequent rounds of collective bargaining or, for non-union groups, through subsequent wage increases. Female-dominated job classes are defined as those in which 60% of the members are female or which are considered female job classes because of historical incumbency or gender stereotype.

Each employer is required to report to its employers' association in its sector and to receive approval for its pay equity plan and/or amend its plan as required by the employers' association. Where the employer association is the bargaining agent for the employers in the sector, the approval process is carried out by the PSEC Secretariat. Where an employee group is unionized, the pay equity process is to be carried out in conjunction with collective bargaining. Each pay equity plan must also include a mechanism to maintain pay equity once it has been achieved.

Any salary adjustments must be made "on a rational basis relative to pay inequities". They must also be consistent with PSEC's compensation guidelines and the government's fiscal framework. Pay equity adjustments must not exceed 1% of each year's salary payroll, and the overall amount allocated for pay equity adjustments and general wage increases combined cannot exceed the maximum amount outlined in the PSEC Compensation Guidelines.

Generally, those involved in the process consider that the Pay Equity Policy has met its pay adjustment goals in the public service and in some parts of the broader public sector, such as in acute care health facilities and in schools. Most would agree that, even with the participation of very sophisticated parties and the public sector's comparatively easier access to funds from which to pay adjustments, it has taken a long time to "achieve" pay equity. Progress in other areas of the broader public sector, such as crown corporations, and community health and social services, has been much slower. In some cases, pay equity plans are not completed, in others, agreements on adjustments have been made, but the money has not yet been paid to workers.

b) Targeted study programs

There are a number of student loan and grant programs that are directed at women generally, or at women studying in fields where women are traditionally underrepresented. For example, Canada Study Grants are available for high-need part-time students (especially sole-support mothers who are studying part-time), female doctoral students in certain traditionally male disciplines, and students with dependents.

Starting in 2000, the Canada Millennium Scholarships assist female single parents with below-average incomes to acquire post-secondary education. The program aims to assist 100,000 full and part-time students.

The federal and provincial governments administer various programs to increase women's participation in traditionally male fields. These include the British Columbia Women in Trades and Technology program which has provided training to government and industry in recruiting and retaining women in trades, and guidelines for introductory and trade-specific training for women.

c) Employer-initiated measures

In addition to meeting statutory requirements, employers can choose to adopt measures to directly or indirectly improve the economic equality of their female employees in a variety of ways. Many employers actively promote equal opportunity values in their workplaces through the creation, dissemination and enforcement of anti-discrimination and anti-harassment policies. Employers have also conducted independent reviews (either alone or in conjunction with unions) of their compensation structures and recruitment, hiring and promotion practices to ensure they have equitable pay practices and employment opportunities for women. These pay-equity and employment equity types of initiatives may focus on women or may also include other groups.

Some employers provide additional training or assistance for women to their employees, which may be particularly helpful in increasing women's economic opportunities. For example, some employers with large proportions of immigrant workers provide English language training at work or subsidize such training. Employers may provide paid or unpaid leaves and/or financial assistance for additional education or upgrading training for existing employees.

Employers have also offered benefits to address women's disproportionate share of family responsibilities and to help all employees achieve an acceptable balance of work and family responsibilities. They may top up Employment Insurance maternity, parental and/or adoption benefits so that employees can take these leaves with less or no reduction in earnings. They may provide additional paid or unpaid leaves to allow employees to care for ill children or respond to family emergencies. They may also extend health and other benefits to employees' families. Some employers have adjusted work schedules to accommodate child care and family commitments, providing for any or all of part-time work, compressed work weeks, flexible schedules and tele-commuting. Some larger employers provide child care on-site, or assist employees to locate suitable care for their children.

These employer initiatives have had positive results for employers, as well as their employees. Increasingly, the employers heading lists of Canada's top employers do so because they provide benefits to address employees' concerns about balancing work and family. Such employers believe these benefits pay off in terms of increased employee productivity, loyalty and retention. Public recognition of employers' efforts to promote equal economic opportunity for women in innovative ways is good for business, attracts employees to those firms, and allows other employers to learn about measures they might consider. (For example, see *MacLean's*, November 5, 2001; Frank, 1994.)

****

These are some of the existing measures that, in various ways, improve women's ability to achieve equality of economic opportunity in their employment. Generally speaking, all measures that comprise the social safety net and alleviate the economic insecurity of low income earners will positively affect the gender pay gap in some way, because women are more likely to be poor than men. For example, housing initiatives which provide women with stable, decent and affordable housing have been shown to improve the labour force participation of low income women (Johnson and Ruddock, 2000).

Similarly, any initiatives which aim to alleviate women's disproportionate responsibility for unpaid domestic and child-related work will have a consequent positive impact on women's labour force participation and the gender pay gap. The primary focus of many such initiatives is improving access to affordable child care. Such measures are crucial, but governments are struggling to provide meaningful assistance within their budgetary constraints and it remains to be seen what supports will continue, both in British Columbia and elsewhere. Child care subsidies are not the only way to address the problem. Recently, some governments have tried to address this issue through education. The Swiss government, for example, has recently launched the "Fair Play at Home" campaign targeted at young couples who are about to have their first child. The goal of this public education campaign is to convince young men and women that more equitable sharing of unpaid work allows both partners to have fulfilling careers and raise families (*Vancouver Sun*, February 2, 2002).

There are many ways to address the gender pay gap, and, because it is a multi-faceted phenomenon, it must be tackled on many different fronts. The network of existing measures therefore forms an important part of the context in which further reforms, including pay equity, should be considered.

III. PAY EQUITY

In this section of the report, I turn to the evolution of pay equity initiatives in Canada. First, I present a brief chronology of the development of protections for women's equality in employment. In the second part of this section, I discuss some of the main theoretical criticisms of the concept of pay equity. In the third and fourth parts, I examine the pay equity laws of three Canadian jurisdictions: federal, Ontario, and Quebec. These are the only Canadian jurisdictions with pay equity initiatives that apply to the private sector.

Most other Canadian jurisdictions have pay equity laws or policies that apply to the public sector. There are interesting variations among public sector pay equity initiatives, such as whether they are legislated or policy-based, how they interact with collective bargaining, and the details of the job evaluation and comparison process they require. However, designing a law or policy affecting wage determination for public sector employers is a very different thing than designing one for the private sector. To state the obvious, private sector employers do not have the access that public employers have to public money to fund any increases in wages (although I recognize some public employers are more advantaged in this respect than others).

Given the differences between the public and private sector in this context, and mindful of my terms of reference which directed my attention to the private sector, I have looked closely only at the three Canadian pay equity laws that apply to the private sector. I believe that this discussion reveals those aspects of pay equity legislation most salient to the private sector and to the question of whether British Columbia should adopt this approach to address the gender pay gap in its private sector.

A. History

The following brief chronology tracks the spread of pay equity initiatives within Canada (see Federal Pay Equity Task Force Discussion Paper, 2002). I have also included important dates in the removal of formal barriers to women in the workplace and in the passage of equal pay for equal work laws.

1951	Ontario is the first Canadian jurisdiction to enact equal pay for equal work legislation; Saskatchewan follows suit a year later.
1953	British Columbia passes the *Equal Pay Act* guaranteeing men and women the same pay for substantially similar work.
1955	Removal of prohibition on married women working in the federal public service.
1956-73	All remaining Canadian jurisdictions enact equal pay for equal work laws: Manitoba and the federal government in 1956, Alberta and Nova Scotia in 1957; Prince Edward Island in 1959; New Brunswick in 1961; Quebec in 1964; Northwest Territories in 1966; Newfoundland in 1971; Yukon Territory in 1973.

1969 British Columbia is the first province to add "sex" as a prohibited ground of discrimination in its human rights legislation, followed by all other Canadian jurisdictions during the 1970s.

1970 *The Report of the Royal Commission on the Status of Women* is tabled with 167 recommendations on a diverse range of issues including child care, the *Indian Act* and equal pay for work of equal value. The Commission specifically recommends that all relevant federal, provincial and territorial legislation be amended to incorporate the concept of skill, effort and responsibility as objective factors in the determination of what is equal work.

1975 Quebec adopts the *Charter of Human Rights and Freedoms*. Section 19 of the Charter guarantees a right to equal pay for equivalent work without discrimination for employees of the same employer. Cases interpret this as a right to equal pay for work of equal value.

1977 *Canadian Human Rights Act* comes into force. Section 11 prohibits wage discrimination between male and female employees performing work of equal value.

1978 Canadian Human Rights Commission issues the *Equal Wages Guidelines, 1978*, clarifying the four factors to be considered in assessing the value of work (skill, effort, responsibility and working conditions), and the factors which justify wage difference between male and female employees.

1982 Canadian Human Rights Commission amends the *Equal Wages Guidelines* to add more factors which will justify differences in pay between male and female workers in jobs of comparable value.

1984 Rosalie Abella's *Equality in Employment: A Royal Commission Report* is published. The Abella Report makes a number of recommendations for initiatives to increase women's opportunity for economic equality in employment, including a recommendation that equal pay for work of equal value be part of all employment equity programs.

1985 Section 15 of the *Canadian Charter of Rights and Freedoms* comes into force, prohibiting discrimination on the basis of sex, as well as on other grounds. Section 15(2) of the Charter expressly allows for the creation of affirmative action programs.

Manitoba passes the *Pay Equity Act*, the first proactive Canadian pay equity law, (modeled on 1982 Minnesota legislation) which requires public sector employers and unions to negotiate a system for job evaluation.

Yukon Territory passes the *Human Rights Act*, article 14(2) of which provides: "It is discrimination for an employer to establish or maintain a difference in wages between employees who are performing work of equal value, if the difference is based on any of the prohibited grounds of discrimination."

1986 Canadian Human Rights Commission revokes the *Equal Wages Guidelines, 1978* and replaces them with the *Equal Wages Guidelines, 1986*, further clarifying the legislation.

1987 Ontario passes the *Pay Equity Act*, a proactive law imposing a positive obligation to achieve pay equity on public sector employers and private sector employers with ten or more employees and creating the Pay Equity Commission to administer the law. Employers are required to achieve pay equity following the process set out in the statute and within certain deadlines.

1988 Nova Scotia passes the *Pay Equity Act*, which applies to the provincial civil service, corrections employees, crown corporations, highway workers and to hospitals, school boards, universities, municipalities and municipal enterprises and creates a Pay Equity Commission to administer the law.

Prince Edward Island passes the *Pay Equity Act*, a proactive law applying to employers in the public sector. A Pay Equity Bureau and Commissioner are created to administer the law.

Newfoundland amends its *Human Rights Code* to include provisions prohibiting public sector employers from maintaining wage differences between male and female employees "who are performing under the same or similar working conditions, the same or similar work on jobs requiring the same or similar skill, effort and responsibility." Implementation of this amendment is through the collective bargaining process.

1989 New Brunswick passes the *Pay Equity Act*, requiring public sector employers and bargaining agents to negotiate and agree on a process for implementing pay equity.

1991/92 Newfoundland passes the *Public Sector Restraint Act*, voiding any retroactive payment of pay equity adjustments, even in existing agreements. The law allows for continued negotiation of pay equity, but the earliest pay equity adjustment date is the date on which the adjustment is agreed upon.

1993 Ontario amends its *Pay Equity Act* to add the proportional value and proxy methods of job comparison.

1995 British Columbia introduces the *Public Sector Employers' Council Pay Equity Policy Framework*, a proactive policy requiring all public sector employers to develop pay equity plans with each bargaining unit and employee representatives (for non-union employees) in the workplace. Plans must be filed and approved by PSEC.

Prince Edward Island passes *An Act to Amend the Pay Equity Act*, repealing provisions allowing for complaints to be made and eliminating the duty to maintain pay equity.

1996 Quebec passes the *Loi Équité Salariale*, to come into force one year later, a proactive law that applies to all public and private sector employers with ten or more employees. (Smaller employers still fall under s. 19 of the Quebec Charter.) The law imposes an affirmative obligation to achieve pay equity by a set process and within fixed deadlines.

Ontario passes the *Savings and Restructuring Act, 1996* repealing the proxy comparison method. (This change is declared unconstitutional by the Ontario Supreme Court in 1997.)

1997 Saskatchewan introduces the *Equal Pay for Work of Equal Value and Pay Equity Policy Framework* which applies to the public sector. It sets out minimum standards for implementing pay equity, including adoption of a jointly negotiated gender-neutral job evaluation system, and a timetable and amounts for pay adjustments.

Ontario passes the *Public Sector Transition Stability Act, 1997* providing that where a business is sold and restructured, the new employer is not necessarily bound to make pay adjustments set out in the previous employer's pay equity plan.

1999 Saskatchewan adds its health sector to its *Policy Framework*.

2001 The Government of Canada establishes the Pay Equity Task Force to review s. 11 of the *CHRA* and to report by the fall of 2002.

British Columbia passes an amendment to the *Human Rights Code*, adding a pay equity provision. A change in government results in repeal of the legislation and the creation of the present task force to study pay equity for the private sector.

B. Theoretical Issues

"Equal pay for work of equal value" is a powerful slogan. It evokes our natural desire to be valued or recognized (and not only in a financial sense) for what we do. For any group, including women, whose talents, capacities and work have been minimized or overlooked, the notion of public recognition of one's work is compelling. Public recognition expressed in dollars is also especially compelling for women, since much of their work has been and continues to be without pay.

Pay equity also appears conceptually simple. However, accomplishing it has proved to be both difficult and controversial. Virtually everyone with whom I spoke or whose work I read agreed that unjustified sex-based wage disparities exist, that discrimination against women in compensation is prevalent and that employers' compensation practices are a large part of the problem. However, many of these people do not believe that pay equity – despite its apparent simplicity – is a good way to address this problem. In this section, I present some of the main conceptual disagreements over pay equity. My purpose is not to present a comprehensive summary of the literature; so much has been written that I could not do it justice. Nor do I intend to come to a definitive conclusion about whether pay equity is theoretically sound.

I think that some of the basic controversies surrounding pay equity are most easily presented in the abstract, without clouding them in the mechanics of a particular piece of legislation. The purpose of this section is to illuminate some of the controversies that re-emerge in my subsequent discussion of Canadian pay equity legislation. Therefore, I have focussed on the concerns about pay equity advanced by those who agree that sex-based wage disparities exist, that some part of these disparities is unjustified, and that employers can help to reduce the problem. While there are others who would disagree with some or all of these positions, they are in a minority. Their criticisms of pay equity are less useful for the purposes of this report, as they are premised on their view that there is no problem to solve.

My discussion of theoretical criticisms of pay equity is divided into two sections. First, I consider issues relating to the goals of pay equity. What does pay equity claim to do and can it do it? Then I will address issues relating to its content. What are pay equity's premises and do they make sense?

1. What does pay equity claim to do and can it do it?

Pay equity has been said to be designed to achieve a number of goals. It is usually described as an initiative to address the gender pay gap or at least that part of it that is attributable to the undervaluation of women's work. (Read, 1996; McDermott, 1990; Fudge and McDermott, 1991: 283). It has often been defined as a measure to address occupational segregation and, specifically, to eliminate the undercompensation of women's work that results from occupational segregation (Figart & Lapidus, 1996; Armstrong, 2000). Pay equity has also been described as a mechanism to raise women's wages (Lewis, 1988). And it has been depicted as a way to eradicate historical gender bias by compensating women's work as if it had historically been done predominantly by men and not women (Haignere, 1991). Critics have doubted that pay equity can achieve any of these goals.

a) Reducing the wage gap

As we have seen, there are various measures of the gender pay gap but, however it is measured, the unit of comparison is the individual worker. Yet pay equity does not equalize pay between workers, it equalizes pay between jobs. Pay equity requires that male and female jobs of equal value be paid equally. Whether a job is male, female, or gender-neutral depends on the gender predominance of the workers doing it. One common way to determine gender predominance is by a percentage cut-off: if 60% or 70% (or some other number) of the workers in the job are of one gender, the job is considered to be of that gender. This means that men, as well as women, working in a female job may have their pay changed through the application of pay equity. It also means that pay equity cannot change the pay of women, as well as men, working in gender neutral or male jobs. For the men and women working in female jobs, pay equity will only alter their pay if a male job of comparable value can be found. Generally, but not always, the search for a comparable male job is confined to the workplace and does not extend beyond it. Where a comparable male job is found, what is compared is the salary for the job, usually defined as the highest salary possible for the job. Any actual increase in a worker's pay will be proportionate to the relationship between his/her actual pay and the maximum job rate. It is difficult to describe pay equity as a measure which directly addresses the gender pay gap, because it is only capable of altering the pay of some female workers, and this will be offset by the change in pay for male workers in the same job.

The extent to which pay equity can reduce the gender pay gap also turns on the reasons for the gap. To the extent that women earn less than men because they work fewer hours, have less formal education or skills certification, have fewer years of experience or an interrupted pattern of labour force attachment, work for smaller employers (who tend to pay less than larger employers), or have other personal characteristics that affect where and when they work, pay equity will not affect their earnings. Any gender-based reasons that influence these factors, for example, cultural gender stereotypes that steer women into educational fields or lead them to limit their hours of work to care for their children are not directly addressed by pay equity.

Pay equity may operate on that portion of the gender pay gap that is not attributable to any known factors as well as on the part of the gap attributable to occupational segregation. How much of the gap is due to factors that pay equity can correct, and to what extent pay equity can correct them, is a matter of much debate. Estimates have varied widely: some have argued pay equity can at best affect only a very small portion of the gender pay gap, increasing women's wages on average only by a couple of percentage points. Others have claimed it has far more potential, and could eliminate up to one-third of the gap (Fudge and McDermott, 1991). Whatever the potential figure, there is a general consensus that pay equity can at best only address part of the wage gap. Moreover, for the reasons discussed above, its impact will be uneven: it will only increase the pay of women (and men) doing female jobs relative to the pay of men (and women) doing male jobs, and usually only if comparable male and female jobs are found within the same employer. Critics of pay equity therefore argue that pay equity is not a good way to address the gender pay gap (see, for example, Rhoads, 1993; Killingsworth, 1990).

b) Addressing occupational segregation and undervaluation of female work

Occupational segregation, that is, the concentration of men and women in different jobs, or levels of jobs, whether in the same or different workplaces or industries, is known to be a factor in the gender wage gap. Economists have repeatedly demonstrated a correlation between the concentration of women in a job or occupation and lower wages: the more women there are, the lower the wages (the "gender effect"). For example, Figart and Lapidus cite empirical research that estimates a 10-17% reduction in pay in occupations with a high concentration of women (Figart and Lapidus, 1997: 191; see also Johnson and Solon, 1986).

Pay equity addresses occupational segregation, which is acknowledged as a factor in the gender pay gap. However, it does so in a limited way. To the extent that the gender effect arises within occupations or jobs (that is the concentration of women and men at different levels within jobs or occupations produces a gender effect), pay equity will not address the problem because it draws comparisons only between different jobs or occupations. To the extent that the gender effect arises between firms (some employers employ predominantly women; others employ predominantly men), either in the same or different industries, pay equity also provides no remedy because it compares male and female-predominant jobs and occupations within firms, not across them. (Although some pay equity schemes provide for across-firm comparisons, these are rare and usually only apply to public sector employers.) Some critics of pay equity have argued that increasingly, the gender effect arising from occupational segregation arises from the kinds of occupational segregation that pay equity does not address (for example see Fortin and Huberman, 2002). If this is true, pay equity is not a very effective measure to address the portion of the gender pay gap caused by occupational segregation.

Other critics of pay equity have argued that pay equity will not effectively address occupational segregation in the long run because it does nothing to change who does what work, or the nature of the work. All it changes is the level of compensation. These critics worry that changes in pay are merely a surface adjustment that leaves the underlying problem unresolved. Some critics of pay equity prefer employment equity initiatives over pay equity initiatives for this reason. They say that occupational segregation is best addressed by making occupations more gender-neutral: moving women into traditionally male jobs (and, presumably, men into traditionally female ones). Others have focussed on changing the structure of female jobs: they argue that predominantly female jobs tend to be structured so that they are less productive (and so appear less valuable to the employer) than traditionally male jobs. Increasing the productivity of female jobs would therefore help to reduce or eliminate the gender discount. Current economic research into the link between type of work and gender identity may point to other strategies to disentangle gender from occupation (Ackerlof and Kranton, 2000).

Pay equity may or may not decrease occupational segregation. If wages for predominantly female occupations increase, men may be drawn to them. But if increased wages combine with cultural factors to make stereotypically female occupations more attractive to women (and employers, motivated by the same stereotypes prefer to hire women for these jobs), then occupational segregation may actually increase under a pay equity law.

Whether occupational segregation is itself a problem is a question that turns upon one's beliefs about gender differences. Are women and men basically alike, so that occupational segregation mostly reflects historical stereotypes about the different capacities and preferences of men and women which wrongly constrain personal choices? Or are men and women significantly different in their capacities and preferences, so that occupational segregation largely reflects valid gender-based differences and personal choices? Some of the differences between pay equity's critics and advocates may turn on this point. However, critics and advocates agree that, to the extent occupational segregation produces a gender effect, (such that increasing the presence of women in an occupation tends to depress wages), this is a problem that should be addressed. Unfortunately, pay equity does not directly address this problem. It only addresses the gender effect between different occupations usually within the same workplace.

c) Raising women's wages

In theory, pay equity does not aim to raise women's wages in any absolute sense. It only seeks to eliminate the relative difference in pay between male and female jobs of comparable value. This could be done by raising the wage for a female job to the rate associated with the comparable male job, by lowering the male job rate to the female job rate, or by defining some middle rate. Some proponents of pay equity have pointed to this feature of pay equity as a way of making it appear attractive to employers. In fact, most pay equity initiatives prohibit lowering male wages as a way of achieving equal pay for work of equal value. However, nothing in the concept of pay equity necessitates such a prohibition. It arises from the independent goal of increasing worker's wages generally, particularly wages for women workers, and from concerns about the consequences of reducing men's wages. Activists who believe that the best way to improve women's economic equality is to raise women's wages have been critical of pay equity as a cumbersome and unnecessarily complicated way of getting more money to women. (Lewis, 1988).

d) Eliminating historical gender bias

While the goal of adjusting the current wage associated with female jobs so as to pay the same as if the jobs had historically been performed by men sounds attractive, it is hard to know what this really means.

What would child care workers be paid now if throughout Canadian history child care had been a male-dominated occupation?

Pay equity can be said to be aimed in part at eliminating historical gender bias in that it allows for stereotypically female jobs to be matched to predominantly male jobs of comparable value and paid at the same rate. But, even assuming that the occupation of child care worker is of equal "value" (however measured) to, for example, the occupation of construction worker, equalizing the wages of those two occupations is not the same as trying to figure out what child care work would now be worth if men had done most of it over the last hundred years or so. Even if child care work had always been a male-dominated job, there is no reason to believe it would have attracted the same rate of pay as construction work or any other male job of equivalent "value".

The problem with this goal, in my view, is that the question it poses just cannot be reliably answered. Pay equity does focus on the gender of the work, rather than of the worker, but it does not try to directly identify the historical disadvantage associated with the femaleness of that work. It does so only very indirectly, on the basis of what a comparable –and dissimilar – male job is currently paid. It does not refer to historical factors that may have affected the value of male comparator jobs. Rather, a pay equity analysis accepts its current market value as the "true" measure of the value of the male job, while rejecting as skewed the market value of female jobs.

Responding to such criticisms, most pay equity advocates concede that it is a blunt and inaccurate means of redressing historical gender bias. However, they contend that it is only the workable mechanism available. To accept that the market is only appropriate determinant of value is to abandon the possibility of correcting historical gender bias that has led to the market placing lower value on jobs performed predominantly by women. To reject the market's determination of the value of male comparator jobs would be to abandon the market entirely and move to a non-market basis for wage determination that is not politically feasible. It is true that pay equity tries to take a middle ground between these two approaches. Whether that middle ground makes sense at a conceptual level is discussed below, where I consider whether it is possible to define a job's value in non-market terms. Whether it makes sense in practice becomes evident in my analysis of the impact of Canadian pay equity legislation in the following parts of this section.

2. *What are pay equity's premises and do they make sense?*

Pay equity assumes that it is possible to reliably define a job's value in non-market terms based on the content of the job, specifically, by using the technique of job evaluation. It also assumes that jobs of equal value should attract the same wages. In other words, it assumes that any difference in compensation for male and female jobs of equivalent value is unfair and ought to be eliminated. These premises are controversial.

a) What is a job's value?

i. The non-market value of a job

"Value" is a relative term: to speak meaningfully of value, one needs to specify value to someone. It is particularly important to be precise and consistent when speaking of value in a pay equity context, because the success of the initiative hinges on a reliable determination of value. Value in a pay equity context is generally agreed to mean value to a particular employer, since pay equity usually operates at the establishment level, equalizing compensation for jobs of equal value (to the employer) within that firm. However, despite the apparent consensus that value means value to the employer, I found that the term is used in many other senses in the literature advocating pay equity. Often, references to "value" are premised upon shared moral and political conceptions of value that have little or nothing to do with value to a particular employer. For example Patricia McDermott describes pay equity as "insist[ing] that employers evaluate and pay those doing women's work according to the same measures of value used in assessing their male employees." But she immediately goes on to illustrate her point by invoking an intrinsic, non-employer-based conception of value: "The classic example involves assigning value points for dexterity to someone who uses a screwdriver, while ignoring the fine motor skills employed in the typically female task of typing in clerical jobs or administering needles in nursing" (McDermott, 1991: 28). If the criterion were actually "value points to the employer", an employer might well assign a different value to using a screwdriver than typing or giving a needle, depending to the value to that employer's business of those different tasks. If, for that employer, using a screwdriver contributes much more to the success of the business than typing or administering a needle, should the employer be criticized for valuing the former more than the latter?

The problem is that in a labour market, there is no intrinsic value to any particular type of work. The value of the work, expressed in the wage paid to perform it, is what the employer and employee think someone would be prepared to pay to purchase that labour or what a consumer would be prepared to pay to purchase the goods and services produced from the work. Yet this basis for valuing work is what pay equity advocates reject, because it is the operation of market-based valuation methods that has preserved a systemic undervaluation of female work. The non-market measure of value that pay equity adopts is to measure the value of work in terms of the content of the job that produces the work. But does it make any sense to talk about the value of an employee's work to an employer other than in market terms – what would it cost to hire someone else to do that work or what can the product of the employee's work be sold for?

Pay equity initiatives try to relate the value of a job as determined in non-market terms back to the market by equating the value of a female job to the wages paid on the market for a male job of equivalent non-market value. However, there is no reason, in market terms, why two dissimilar jobs, which may be equivalent in some intrinsic, non-market sense, ought to be compensated at the same rate. The wages paid for a job are not only or perhaps even mostly a function of factors intrinsic to the job.

To adapt an example cited by Mark Killingsworth to the Canadian context (1990: 37-38) suppose an employer employs French-English translators, who are predominantly female, and Spanish-English translators, who are predominantly male. Suppose that the French-English translators are paid less than the Spanish-English ones. The "value" of the two jobs, assessed in the usual pay equity non-market terms of skill, effort, responsibility and working conditions, is the same. On a pay equity analysis, wages for French-English translators are depressed because of the predominance of women in the job, and their pay ought to be raised to the level of the Spanish-English translators because that wage rate represents a non-discriminatory market determination of the value of both jobs.

But what if the employer is located in Montreal? The lower wages of the French-English translators may have nothing to do with the fact that they are predominantly female, and everything to do with the fact that there are far more people capable of French-English translation in Montreal than there are people capable of translating between Spanish and English. In that case, the different wage rates for the two jobs reflects the difference in the supply of people capable of doing them, regardless of gender predominance. To raise the French-English wage rate would be to overvalue that job in market terms. They may have the same value in terms of a measure of their intrinsic worth; they do not have the same value in terms of what that means to this particular employer.

The problem with adopting a non-market definition of value is that it is just not convincing as a foundation for wage structures. Most pay equity initiatives acknowledge this problem by allowing for some market-based justifications for unequal pay between jobs whose non-market value is found to be equal. For example, sometimes paying different wages for jobs of equivalent value, judged on the non-market measure, is allowed where local market conditions warrant. This might allow the employer in the example above to point to the lower supply of Spanish-English translators to justify their higher wages. But to the extent that these kinds of justifications are permitted to cover all of the situations where two jobs of equal value on a non-market measure are actually paid differently, they undermine pay equity's premise that it is possible and useful to value jobs on a non-market basis.

To be convincing, a non-market definition of value would have to arise out of a social consensus about what this kind of value is. But there is no such social consensus. In the submissions I received that addressed the issue, people presented very different notions of value, including both market and non-market conceptions of value. They also disagreed about whether the concept has any useful meaning in this context. Debra Lewis (1988: 33-35) has criticized pay equity for assuming the problem of value away by presuming a non-existent shared conception of value. In other words, pay equity assumes that reasonable, non-gender biased people would agree on how to rank the value of dissimilar jobs, whether by looking at the jobs as a whole or by looking at the skill, effort, responsibility and working conditions within them. (Do you think any or all of the jobs of plumber, legal secretary, doctor, mechanic and accountant of equal value? Would all your neighbours agree?) To the extent this is not true, pay equity's reliance on a non-market approach to value becomes shaky.

ii. Job evaluation

Many of the conceptual difficulties surrounding pay equity's adoption of a non-market measure of value become most evident when the particular method for determining value, job evaluation, is considered. Job evaluation originated as a management tool for rationalizing job classifications and salary hierarchies, particularly within large enterprises. Since pay equity is a feminist reform, it may seem curious that it should be based on a management mechanism. One reason that job evaluation lies at the heart of existing pay equity initiatives may be that the call for pay equity mostly grew out of feminist movements within public sector trade unions. Trade unions and management alike were very familiar with job evaluation, as it was commonly used as a basis for determining wage levels for job classifications in collective agreements. The slogan "equal pay for work of equal value" demands an evaluation and comparison of work; to people familiar with it, job evaluation appears to be an obvious way of valuing jobs.

Job evaluation is a process by which the content of jobs is assessed using job descriptions and job questionnaires or interviews (often with incumbents of the job and their supervisors) to elicit data about each of the four factors of skill, effort, responsibility and working conditions in relation to that job. The four factors may be broken down into many sub-factors. The levels of each sub-factor or factor that go into each job are quantified, so that the composite value of the job (the sum of the points for each of the factors) can be expressed numerically. (For example, see the Public Service Job Evaluation Plan for British Columbia's public service: PSERC, 2001; see also the Health Services and Support Facilities Subsector Collective Agreement 1998-2001, which identifies ten equally-weighted factors.)

Valuing jobs in this way is very controversial. Jane Gaskell takes issue with pay equity's assumption that the four factors can be identified and quantified in a neutral and objective way by focussing on the factor of skill: "Skill is not an easily identified and quantified characteristic of a job, which can unproblematically be rated on a scale from 1-10 and entered into an equation." (Fudge & McDermott, 1991: 45). What is considered skilled or unskilled work changes over time and is very much influenced by market factors. For example, it used to be the case that the ability to drive a horse and carriage was not a "skill" which attracted a wage premium, whereas the ability to drive an automobile was. Today, in Canada, the reverse is true. What counts as skilled work can change quickly. Not so long ago, the ability to use a computer was considered to be a skill, but now workers are presumed to know the basics of computer and internet use. What counts as a skill varies with the underlying social context which tells us what skills are general to the population, in the sense that workers can be assumed already to have them. Thus, the value of a skill is not constant or inherent to the skill, it is always changing.

Another problem with job evaluation is that it is inherently a very subjective process. Different methods of job evaluation will yield different values for the same jobs. Job evaluation is just as vulnerable to gender bias in the determination of skill, effort, responsibility and working conditions as is wage-setting in general. To use Patricia McDermott's example, someone who pays a handyman more than a typist or a practical nurse is likely to assign more skill points in a job evaluation process to the manual dexterity involved in using a screwdriver than that involved in typing or giving a needle. Job evaluation is no more likely to be free of gender bias than the wage-setting practices that pay equity seeks to change (see Lewis, 1988; Armstrong and Armstrong, 1991).

By drawing on an intrinsic notion of value, and by cloaking it in the superficial objectivity of numbers and statistical analysis, job evaluation presents itself as a gender-neutral, reliable and principled way of establishing wages. But statisticians and feminists have repeatedly reminded us that it is not. (See Monette, 1996; Abbott, 1989; Lewis, 1988; Olshevski, 1987). Numerous studies have shown that different job evaluation systems – or even the same job evaluation system applied by different evaluators – will yield very different determinations of value for the same set of jobs. (See Killingsworth, 1990 for example.)

In my view, the problem of relying on a job's value as the basis for pay equity is that it is just not capable of being reliable and gender-neutral enough to function as an alternative to market determination of pay rates across the board. That said, non-market assessments of value, whether based on the technique of job evaluation or otherwise, can help to illustrate aspects of female-dominated jobs that have traditionally been overlooked in particular cases. The wage premium that was paid to police officers for their dangerous working conditions was not recognized or paid to social workers who faced similar dangers when making home visits. Job evaluation, under a pay equity plan, which requires a detailed analysis of the actual working conditions of those jobs, could have revealed this overlooked similarity. But the fact that a non-market notion of value can sometimes highlight inequities in compensation between some traditionally male and traditionally female jobs does not mean that this approach is capable of producing precise and reliable measures of job value generally.

Job evaluation, which is what "value" in the pay equity context has come to mean, was not intended to function with such precision. It was simply a management tool to assist in setting wages within a particular workplace, often in the context of negotiating with one or more unions. In that context, the value determined by job evaluation was overtly subjective and contested. Job evaluation in a pay equity analysis can help unions and management to recognize that they should not overlook the skills and abilities required of those in stereotypically female jobs, or to assume that they are innate to the worker and are not part of the job, when they are negotiating wage rates. But to take this conception of value outside this context and impose it as a universal and complete justification for compensation may be to give it more weight than it can bear.

b) Should jobs of equal value have equal wages?

The primary weakness in pay equity's premises lies in its conception of value, and most critics have focussed their attention on this problem. However, even assuming that it is possible to reliably value dissimilar jobs according to a non-market measure of job content, pay equity also assumes that it is appropriate to equalize the wages of jobs of equal value. In other words, pay equity assumes that any difference in the compensation for dissimilar jobs of equal value in terms of their job content reflects an unfair or discriminatory undercompensation of the female job which ought to be eliminated.

Pay equity's comparison process assumes that the sole benefit to the worker from the job is the financial compensation attached to it. No effort is made to value or quantify non-monetary forms of compensation, such as job satisfaction, even though the compensation paid for the job may reflect these intangible rewards. Adam Smith's theory of "compensating differentials," which is the origin of the notion that the content of a job and the conditions under which it is performed affect the wages paid for it, is not applied consistently in pay equity. The compensating differential that makes some jobs more popular than others (for example, the lower salaries associated with working for non-profit organizations is often said to be compensated for by pleasant feeling associated with doing good for others) is simply disregarded in pay equity. The possibility that two jobs of equivalent value in terms of their job content might attract different wages because one yields a high level of job satisfaction and the other does not plays no part in a pay equity analysis (Killingsworth, 1990).

Of course people differ in what work they find satisfying, but it is also true that some jobs are more popular than others. Child care work is often cited in the pay equity literature as a telling example of the undercompensation of female work. The job rate for a child care worker is often compared to the higher rates of pay associated with animal care attendants. Much of the force of this as an example of gender inequity rests on the premise that child care work has equivalent or greater moral (or non-market) value to most people than does animal care work. Assuming that they are of equivalent value in terms of their job content, does it follow that their wages should be the same? If more people find child care a satisfying job in an intangible sense and fewer people find animal care similarly satisfying, this difference may be reflected in wage rates, even if the same composite of skill, effort, responsibility and working conditions make up both jobs. This is not to deny that child care work is also undercompensated because it is stereotypically and historically female work. It is only to say that gender bias is not the whole story. Because it neglects the intangible kinds of rewards associated with different jobs and treats financial compensation as the only reward, pay equity's comparison process is incomplete.

Another criticism of pay equity's approach to job comparison also takes issue with its proposition that paying the female job less than a male job of equal value is necessarily unfairly undercompensating those who perform the female job. The example of the Spanish-English and French-English translators is again instructive. Raising the lower wages of the mostly female French-English translators to the rate of the mostly male Spanish-English translators would not correct a gender bias, it would eliminate the role of the available supply of workers as a factor influencing wages.

Killingsworth's point, whether it is made in the context of pay equity's approach to valuation or its approach to comparison is the same: pay equity's mechanisms are flawed because they do not correct only the part of undervaluation or undercompensation of work that is because of gender, and not other factors. An employer might pay its (mostly male) labourers more than its (mostly female) clerks. Pay equity cannot reliably tell us whether or how much of the difference in wages is because the employer, influenced by past or present undervaluation of women's work, sets wages inappropriately, or whether or how much is due to gender-neutral market factors.

3. Conclusions on pay equity theory

My purpose in this section has been to present some of the basic theoretical concerns about pay equity in order to convey a sense of some of the debates in the literature. Although my reading of the literature has convinced me that pay equity has some serious theoretical flaws, my discussion in this section is not intended to prove or disprove pay equity's conceptual foundations or to suggest how they might be revised.

Whether or not pay equity works as a theory, what really matters to most people is whether it works in practice. Understanding some of the conceptual issues may help to understand why pay equity laws have had the effects they have had. In the end, however, whether pay equity legislation is an effective and efficient response to the problem of sex-based wage disparities in the private sector can only be answered by looking at the operation of existing legislation, and it is to this I now turn.

C. The Complaints-Based Model

1. Description of the legislation

The leading example of a complaints-based model of pay equity that applies to the private as well as the public sector is s. 11 of the *Canadian Human Rights Act* (*CHRA*). (Section 19 of Quebec's *Charter of Human Rights and Freedoms* is another such provision and is discussed in III.D.2 below.) Effectively, an employer's pay practices are only subject to outside scrutiny if an individual (or group) makes a complaint that the employer is not complying with s. 11. The fact that the pay equity provision appears in the *CHRA* means that it is enforced through the federal human rights process.

The *CHRA* was enacted in 1977 and came into force on March 1, 1978. It was the result of Canada's ratification, in 1972, of ILO Convention 100 and of the *International Covenant on Economic, Social and Cultural Rights* in 1976, both of which endorsed the concept of equal pay for equal value. The Royal Commission on the Status of Women's 1970 report had also recommended that legislation be enacted to protect equal pay for equal value.

The pay equity provision enacted in 1977 remains unchanged in the current *CHRA*. Section 11 provides:

> (1) It is a discriminatory practice for an employer to establish or maintain differences in wages between male and female employees employed in the same establishment who are performing work of equal value.
>
> (2) In assessing the value of work performed by employees employed in the same establishment, the criterion to be applied is the composite of skill, effort and responsibility required in the performance of the work and the conditions under which the work is performed.
>
> (3) Separate establishments established or maintained by an employer solely or principally for the purpose of establishing or maintaining differences in wages between male and female employees shall be deemed for the purposes of this section to be the same establishment.
>
> (4) Notwithstanding subsection (1), it is not a discriminatory practice to pay male and female employees different wages if the difference is based on a factor prescribed by guidelines, issued by the Canadian Human Rights Commission pursuant to subsection 27(2), to be a reasonable factor that justifies the difference.
>
> (5) For greater certainty, sex does not constitute a reasonable factor justifying a difference in wages.
>
> (6) An employer shall not reduce wages in order to eliminate a discriminatory practice described in this section.
>
> (7) For the purposes of this section, "wages" means any form of remuneration payable for work performed by an individual and includes
>
> > (*a*) salaries, commissions, vacation pay, dismissal wages and bonuses;
> >
> > (*b*) reasonable value for board, rent, housing and lodging;
> >
> > (*c*) payments in kind;
> >
> > (*d*) employer contributions to pension funds or plans, long-term disability plans and all forms of health insurance plans; and

(*e*) any other advantage received directly or indirectly from the individual's employer.

Like the rest of the *CHRA*, s. 11 applies to the federal government, the governments of the Northwest Territories and Nunavut, federal crown corporations, and federally regulated businesses, which includes companies operating interprovincial road, rail, or air transportation, radio, television or telecommunications companies, banks, and nuclear power facilities. (The *CHRA* does not apply to the Yukon Territory, which has its own complaints-based pay equity provision that applies to its public sector.)

In order to invoke the protection of s. 11, an individual (or group) must make a complaint to the Canadian Human Rights Commission within one year of the date of the events giving rise to the complaint. While pay equity complaints may be started by an individual, they are usually made on behalf of groups of employees. Commission staff will conduct a preliminary analysis to see if the complaint is well-founded (whether there is a *prima facie* case). If so, the Commission will approve registration of the complaint by the complainant(s). Upon registration, a Commission investigator is assigned to investigate the complaint, the employer is notified of the complaint and is requested to respond to it. The Commission may decide to discontinue the investigation at any time, for example, if the complaint is settled or the employer appears to have a valid defense.

During the investigation, the investigator collects information about the jobs at the workplace that is the subject of the complaint. The Commission establishes a job evaluation committee to evaluate jobs and, after this has been done, analyzes the evaluated jobs to determine the extent of any wage gap. The investigator incorporates the analysis in the investigation report, and the report is presented to the Commissioners of the Human Rights Commission as well as to the parties. The parties have an opportunity to respond to the investigation report, after which the Commissioners may decide to dismiss the complaint, suggest a resolution of the complaint, or refer it to hearing before the Canadian Human Rights Tribunal.

The Commission has a statutory mandate to raise public awareness and provide education about pay equity, as well as other human rights, and this role includes assisting employers and unions to implement pay equity programs in their workplaces. However, the main focus of a complaints-based system is the resolution of complaints. Complaints involving individual employees or small groups of employees are often settled at the Commission stage, without being to the Tribunal for hearing. However, cases involving many employees (and potentially huge awards against employers) have resulted in very lengthy hearings.

2. *Analysis of the legislation*

The most well-publicized federal pay equity cases have involved large groups of complainants and very large employers. These include the litigation between Bell Canada and three of its unions, the complaint by the Public Service Alliance of Canada (PSAC) against the federal Treasury Board, PSAC's complaint against the Government of the Northwest Territories (GNWT), and the complaint by the Canadian Union of Public Employees (CUPE) against Canadian Airlines and Air Canada. These cases have been lengthy, litigious (involving many court applications and appeals during the course of the hearing), and expensive. For example, the complaint against Bell was launched in 1988 and has still not finished. PSAC's complaint against the GNWT started in 1989 and is still ongoing. The Treasury Board case started in 1984 and was finally settled in October 1999. CUPE's complaint against the airlines was filed with the Commission in 1991 and was dismissed in 2001, on the basis of a legal issue and without a full hearing of the evidence. In other words, two of these four cases have been ongoing for over 12 years; one complaint was found justified after 15 years, and one was dismissed after 10. There were numerous judicial reviews, and appeals of those reviews during the course of each case, some of which are still ongoing. [For summaries of the histories of these cases, see Appendix D.]

One of the reasons for protracted litigation of s. 11 cases is the fact that a number of the key terms in s. 11 are not clearly defined, leaving room for very different interpretations of what the section actually prohibits. Over the years, the Commission tried to clarify the meaning of s. 11 by issuing various interpretation guides. It issued the *Equal Wage Guidelines* in 1978, which were amended and eventually replaced by the *Equal Wage Guidelines, 1986*. The *Guidelines* define a number of the key terms in s. 11, expand on the content of the criteria in s. 11(2) and methods for assessing value; distinguish between individual complaints and those made by groups, provide direction on the gender composition of occupational groups who can collectively file a complaint, and establish what factors will justify a difference in wages. These provisions have also proved to be controversial. They are currently the subject of an appeal before the Supreme Court of Canada.

Over the 1980s, pay equity advocates criticized complaints-based pay equity models as ineffective. Instead, they argued for "proactive" approaches to pay equity. The hallmark of a proactive approach is that an affirmative obligation is imposed on employers to implement pay equity programs in their workplaces. While s. 11, like all other human rights, imposes an affirmative obligation not to discriminate, in practice, that obligation is not reviewed or tested unless a complaint is made. By contrast, a proactive approach, at least in principle, allows for much greater scrutiny, since no complaint is required. Once the obligation is imposed, it can be enforced directly by government, without the need for a complaint or a complainant.

In 1984, the Abella Report recommended the adoption of a proactive statutory approach to pay equity and employment equity, in the context of its overall advocacy of a comprehensive strategy to eliminate employment barriers and practices that discriminate against women. In 1987, the federal Human Rights Commission published its own proposal for reform of s. 11, also recommending a more proactive model. (See Canadian Human Rights Commission, 2001.)

In an effort to become more proactive with respect to pay equity without legislative reform, the federal government created the Equal Pay Program, administered by the Labour Standards and Workplace Equity Directorate in the Labour program of Human Resources Development Canada ("HRDC"). (Under s. 182 of the *Canada Labour Code*, *Part III*, HRDC is responsible for inspecting employer's compensation systems for compliance with pay equity and for referring cases of non-compliance to the Commission for investigation.) The Equal Pay Program provides training, monitors pay equity, and inspects compensation practices for federally regulated employers. It provides educational materials and technical advice to unions, employers, and employee associations. It has developed a three-step process to help employers implement pay equity: an initial educational visit is followed by a subsequent visit to answer questions and monitor progress. Finally, a compliance audit is performed by HRDC investigators who may refer cases to the Commission if an employer does not undertake to do what is required to achieve compliance.

Despite efforts such as the Equal Pay Program and the *Guidelines*, the federal model of pay equity has been criticized from all quarters. Such criticism was also apparent in those of the submissions I received that addressed the federal law. Pay equity advocates and critics agree that the model is extremely costly and cumbersome to administer. Quite apart from any eventual cost of a Tribunal hearing or court proceedings, the investigation process may consume years before a case is even referred for hearing. In its 1993 Annual Report, the Commission reported that approximately 70,000 workers had received pay equity awards since 1978, representing "only a fraction" of the number of workers who had made complaints to the Commission. Placing the onus on complainants to initiate such complex and lengthy proceedings means in practice that only workers represented by unions can make complaints. The relatively few federal pay equity complaints that have been upheld have mostly been those initiated by unions. Moreover, as Patricia McDermott wrote in 1996, the presence of s. 11 in the *CHRA* since 1978 had not as yet resulted in any "significant reduction in the gender-based wage gap for federally regulated employees" (McDermott, 1996: 93-94). I have not read of any significant change in that gap to the date of this report.

Although any complaints-based system will tend to capture only some of those who are not in compliance with the legislative requirements, a complaints-based system is generally considered fair and effective where non-compliance is the exception rather than the rule. However, where the legislative goal is to stimulate change to systemic practices, by definition the now-prohibited conduct is the rule, not the exception. Initiating a complaint where this is the case means placing an enormous and long-lasting burden on the workers who make the complaint, with all of the disadvantages and uncertainties that being a party to protracted litigation entails. It is unfair to make such individuals bear the cost of systemic change, particularly given the small likelihood of any financial benefit to them at the end of the day. From an employer's perspective, being the subject of a complaint means being publicly scrutinized and forced to incur substantial costs that one's competitors are not, with the risk of being subject to a public damages award. In the context of redressing sex-based wage disparities, a complaints-based model does not do justice to workers or to their employers, or to the problem it seeks to address.

Most recently, in 2001, the federal government decided to take action on its complaints-based pay equity model, signaling its own dissatisfaction with the current legislation. The Ministers of Justice and Labour appointed a three-person task force to review s. 11 and the *Equal Wage Guidelines*, commencing in the fall of 2001. In January 2002, the Task Force released a discussion paper and call for submissions, as well as a paper outlining its research agenda and requesting proposals. The Task Force will hold public consultations across Canada, and is expected to report in March 2003.

D. The Proactive Model

I first describe the Ontario *Pay Equity Act* and then summarize Quebec's *Loi Équité Salariale* under this heading, as the Quebec statute was a refinement of Ontario's earlier effort to legislate a proactive model of pay equity for both private and public sectors. Much of my description and analysis of the Ontario *Act* apply to the Quebec statute, so I have confined my comments on Quebec's law to how it differs from the earlier legislation.

1. *Ontario's legislation*

a) Description of the *Pay Equity Act*

i. Substantive provisions

The Ontario *Pay Equity Act* was enacted in 1987 and came in force in 1988. It was the first proactive Canadian pay equity law to apply to the private as well as the public sector and has been described as the "most advanced in the world" (Gunderson, 2001). The stated purpose of the *Act* is to "redress systemic gender discrimination in compensation for work performed by employees in female job classes." A job class is a group of positions in an establishment that have similar duties and responsibilities, qualifications, recruitment methods and the same salary range or compensation schedule. Generally, a female job class is one that contains at least 60% women and a male job class is 70% or more male, but historical incumbency of the class and gender stereotypes about fields of work are also considered.

The *Pay Equity Act* covers all public sector employers and all private sector employers with ten or more employees. "Employees" includes both full and part time workers and casual or temporary contract workers, but not students employed during vacation periods. All employers subject to the *Pay Equity Act* must achieve and maintain pay equity within each of their establishments by determining the value of work done by predominantly male and female job classes in the establishment, according to a gender neutral job comparison system that measures the composite of skill, effort, responsibility and working conditions for the job class. The employer must then adjust the job rate of each female job class to match that of a comparable male job class.

The statute prescribes the process by which pay equity is to be achieved. All public sector employers and all private sector employers with more than 100 employees are required to post a pay equity plan; private sector employers with fewer employees can choose whether or not to post such a plan. The main advantage of posting a plan is that any pay equity adjustments that may be required can be spread over a number of years (costing the employer no more than 1% of its payroll in any year). If the employer chooses not to post a plan, the employer must make all pay adjustments by one year after the date by which the plan would have been posted (1994 for employers with 50-99 employees and 1995 for smaller employers). A separate pay equity plan is required for each establishment of an employer. Where the employer is unionized, there must be a pay equity plan for each bargaining unit and a separate pay equity plan for any non-unionized employees in that establishment.

The content of pay equity plans is stipulated by s. 13 of the *Pay Equity Act*. Plans must identify all the female and male job classes in the establishment. If there are both male and female job classes within the establishment, the plan must describe the gender-neutral job comparison system by which the composite of skill, effort, responsibility and working conditions for each job class is assessed and compared, set out the results of the comparison process, identify all positions and job classes for which the legislation permits differences in compensation, and set out the amount and timing of any pay adjustments required to achieve pay equity. Where there is a union, the employer and union must negotiate all aspects of the pay equity plan and any amendments to it. Where there is no union, the employees must be given 90 days to review and comment on the plan before it is posted.

The *Pay Equity Act* stipulates the comparison methods that must be used after the value of all female and male job classes in the establishment have been determined. First, female job classes must be matched to male job classes of equal or similar value, either within the bargaining unit or, if it contains no male comparator, anywhere in the establishment (job-to-job method). The rate of pay for a female job class must be raised to the rate of a male job class of equal or similar value. If there is more than one male job class of equivalent value, pay is raised only to the level of the lowest-paid comparable male job class. If there is no male comparator of equal or similar value in the establishment, the job rate of the female job class may be raised to the job rate of a male job class that performs work of lower value. The job rate for a job class is the highest rate of pay and benefits for the class, not what its members are actually paid. In the original *Act*, the job-to-job comparison method was the only permitted comparison method.

In 1993, two other comparison methods were added to the *Pay Equity Act*. As a result, if there are unmatched female job classes after the job-to-job method has been used, a proportional value comparison method must be used, whereby a wage line is drawn (by graph or by regression analysis) linking the male job classes of various values. Unmatched female job classes whose pay rates fall below the male wage line are adjusted to bring them up to the male wage line. For broader public sector employers only, where the establishment has only female job classes, the public sector employer must refer to a comparable female job class in a designated proxy institution that has already achieved pay equity, and raise its unmatched female job class pay rates to those of the comparable job classes in the proxy employer (proxy method).

Employers are allowed to maintain differences in pay rates between otherwise comparable female and male job classes where they can show the difference is based on a gender-neutral seniority system, a temporary training or development assignment, a merit compensation plan based on formal performance ratings, red-circling, or a temporary skills shortage leading to a temporary inflation in compensation. The legislation prohibits lowering wages to achieve pay equity. It does not prohibit an employer from designating money that would have otherwise been paid as a general wage increase as a pay equity adjustment.

The *Pay Equity Act* varies the time limits to achieve pay equity by size and type of employer. All public sector employers and large private sector employers were required to post their plans by 1990. Smaller private sector employers had to post plans between 1991 and 1993, with the most time allowed for the smallest employers. Pay adjustments had to start in 1990 and finish in 1998 for public sector employers. Private sector employers who posted pay equity plans had staggered start dates to commence adjustments, again tied to employer size, and were required to allocate 1% of payroll to those adjustments until they had been fully paid out. Private sector employers who were permitted not to post plans were required to complete any pay adjustments by 1994 or 1995, depending on their size.

The provisions set out above comprise a proactive approach to pay equity. Unlike the federal model, which creates an abstract right to equal pay for equal value, Ontario's law obliges Ontario employers to take the specific steps set out in the legislation to achieve the statutory goal. Under the complaints-based federal model, an employer is not required to value and compare male and female jobs unless a complaint is made that the employer has contravened s. 11 of the *CHRA*. Job evaluation and comparison is the statutorily prescribed method for determining whether a s. 11 contravention has occurred. By contrast, under

Ontario's law, all employers to whom the law applies must "achieve pay equity" in the manner set out in the statute on or before the statutory deadlines. While complaints are key enforcement mechanisms in both statutes, the proactivity of the Ontario *Pay Equity Act* lies in its imposition of very specific affirmative actions on employers. The rationale for the proactive model is that everyone must take positive steps to address the "mischief" the legislation aims to correct. There is widespread agreement that, in the area of improving gender-based economic equality, a proactive (rather than a reactive) approach is crucial.

Ontario's legislation requires employers to "maintain compensation practices that provide for pay equity" after they have achieved it, although an exception is made to allow for differences in compensation between female and male job classes to emerge where these are attributable to differences in bargaining strength. While the statute addresses the impact on pay equity plans from the sale or merger of a business, and some other changed circumstances, it provides very little detail about what constitutes adequate maintenance of pay equity.

The *Pay Equity Act* made the achievement and maintenance of pay equity according to its terms mandatory for all to whom it applied, but it was intended to be a "self-managed" system, with as little outside intervention as possible. Beyond the supportive functions of the Pay Equity Commission and the complaint resolution processes of the Review Services Branch and Tribunal, there was no general scrutiny of employers for compliance with the statute. For example, there was no requirement for pay equity plans to be filed or reviewed by the Pay Equity Commission. Employers did not have to report the results of their job comparison process or the amounts of any pay adjustments they made.

ii. Administration and enforcement

The *Pay Equity Act* is enforced by the Ontario Pay Equity Commission, which is comprised of the Pay Equity Office and the Pay Equity Hearings Tribunal. The Pay Equity Office contains three divisions: the Policy and Research Branch, which conducts research and produces reports and recommendations for the Minister; the Information and Education Services Branch, which produces public education programs and materials to assist employers; and the Review Services Branch, which serves as a first level of enforcement, before any complaint is heard by the Tribunal. The Commission's overall annual expenditures were roughly $6.6M in 1989 and $5.9M in 1994. It employed about 80 people during that period.

Cognizant that the original law's effectiveness was limited by the requirement that there be a comparable male job class within a establishment before any pay adjustment could be made, s. 33(2)(e) of the *Pay Equity Act* required the Pay Equity Office to research predominantly female sectors and make recommendations to the Minister as to how the legislation could better provide for pay equity in predominantly female workplaces. The Policy and Research Branch conducted this work. It commissioned research into a number of female-predominant public and private sector industries. From this industry-based research, it developed five options for legislative amendment, which were presented to the Minister. The Policy and Research Branch then commissioned further research to test the options in key female predominant industries, resulting in a further report and recommendations for legislative change. After consultations by the Minister, the *Pay Equity Act* was amended to add the proportional value and proxy comparison methods. The Policy and Research Branch was eliminated in 1994.

The Information and Education Services Branch produces a voluminous body of material to assist employers, unions and employees in achieving pay equity in their workplaces. It has published a series of 18 guidelines in the Pay Equity Implementation Series, as well as a comprehensive guide to implementing the legislation for small and medium-size employers and a package of material designed for non-union female workers. Its information leaflets and the introductory *Pay Equity Affects You* pamphlet were published in 11 languages and widely disseminated across the province. In 1990, the Information and Education Services Branch distributed pay equity posters for display in liquor outlets, government offices, community centres and trade union offices province-wide. A public outreach campaign was formulated after the Branch researched public attitudes and concerns about pay equity. It included bus shelter and public transit advertising that, by all accounts, significantly increased public awareness of the issue.

The Information and Education Services Branch also staffed a telephone hotline which responded to over 21,000 inquiries in 1990, increasing to 37,000 in 1993-94. Each of five education officers took responsibility for education and awareness-raising initiatives targeting the labour movement, health care, private sector, public sector and employees (focussing on non-union women). The Information and Education Services Branch has offered free weekly in-house seminars for employers and regional seminars since 1991. When the legislation was amended in 1993, it produced materials on the new comparison methods. It also developed and published a job evaluation system for small broader public sector employers.

The Review Services Branch answers queries about the legislation and provides input on policy issues, but its core function is to investigate and mediate complaints and objections made under it. When a complaint or objection is made to the Commission, a review officer from the Review Services Branch is appointed to investigate it and to try and mediate a settlement. The review officer can decline to deal with a complaint in certain circumstances and, where a mediated settlement is not achieved, the review officer can make orders to decide any outstanding issues. These orders are subject to review by the Tribunal. Review officers can also monitor the preparation and implementation of pay equity plans on their own initiative. In her 1996 review of the *Pay Equity Act* (the "Read Report"), Jean Read reported that the Review Services Branch had a settlement rate of about 88% and had opened 783 new files in 1995 (1996: 53).

The Pay Equity Hearings Tribunal is a quasi-judicial administrative tribunal, composed of vice-chairs and member representatives of employers and employees. It sits in three-person panels and hears applications challenging review officers' orders. In 1990, the Minister of Labour established a pay equity clinic (PEALS) to help primarily non-unionized women pursue proceedings before the Tribunal. The Tribunal had 171 open cases in 1995-96.

iii. The Read Report

The statute provided for a comprehensive review of its operation shortly after the expiration of the implementation period (the time by which all employers were to have achieved pay equity), to assist in adapting it to the future. The Read Report, completed in 1996, fulfilled this requirement. It recommended 21 changes to improve the statutory provisions for maintenance of pay equity, in light of the passage of its implementation deadlines. These included formal adoption of a complaints-based compliance model, provisions to limit retroactivity on adjustment payments, and to limit re-opening of existing pay equity plans, as well as to allow employers to choose the proportional value method over the job-to-job method of comparison.

With respect to ongoing administration and enforcement, and especially to address the high rate of non-compliance among small employers, the Read Report recommended the promotion of "sectoral partnerships" whereby trade associations would be encouraged to develop template pay equity plans for their particular industry that could then be implemented by each member establishment. Ms. Read also endorsed the Review Branch's pilot project on sectoral monitoring. In that project, review officers targeted a particular industry or sub-industry for a comprehensive audit of its employers' pay equity practices, attempting to contact and assist all employers in the selected industry to achieve pay equity. Ms. Read recommended that the program continue, that it focus on at least one industry or sector each year, and that results of the program be filed with the Minister of Labour.

The Read Report was largely ignored by the Harris government. None of its recommendations resulted in legislative change. Those of its recommendations which suggested non-legislative changes were either disregarded or had already been implemented at the time the report was written.

Currently, enforcement of the legislation is largely complaint-based. The Review Services Branch has continued its sectoral monitoring project. Where an employer is not in compliance with the *Act*, the review officer works with the employer to achieve compliance and/or makes an order. Government funding for PEALS, the pay equity advocacy clinic, has ceased. While funding to the Commission has been reduced, its structure remains unchanged. The Pay Equity Hearings Tribunal has undergone an administrative merger with the body charged with the adjudication of human rights disputes in Ontario, and the number of adjudicators has been reduced. A recent proposal to create a single workplace "super-tribunal" to adjudicate disputes arising under a number of work-related statutes, including the *Pay Equity Act*, appears to have been abandoned.

b) Analysis of the *Pay Equity Act*

The Ontario law was the product of a particular historical and political moment. The Ontario Equal Pay Coalition had been formed in 1976 to lobby for pay equity legislation. The Coalition reflected the dissatisfaction within the feminist labour movement with equal pay for equal work as a method of addressing sex-based wage disparities, and the growing interest in proactive approaches to pay equity legislation which were then being implemented in the public sector in Canada and in the US (Armstrong, 1997). The Coalition had the support of the provincial New Democratic Party and, when the Liberals were elected to a minority government in 1985, a promise to enact proactive pay equity legislation was made a condition of NDP support in the Liberal-NDP Accord. At that time, Ontario's economy was booming and unemployment was low. Feminists advocating for the legislation felt reasonably optimistic that legislative change could address a significant part of the complex problem of gender-based economic inequality. (The current disenchantment with the ability of any government bureaucracy to effectively address systemic social injustices, perhaps most evident in recent criticisms of human rights commissions, had yet to emerge.)

The legislation itself was the product of an extensive lobbying process. Carl Cuneo, among others, has documented the efforts of business groups and the "labour/feminist alliance" to influence the precise provisions of the legislation; he notes that each side won significant concessions (Cuneo, 1991; see also Handman and Jensen, 1999). In the end, all three political parties supported the legislation. Thus, the *Pay Equity Act* was the product of a negotiated compromise between opposing interests engineered (and shaped by) the policy-making processes of the state (Findlay, 1991). The following analysis examines the legislation in light of its aim to "redress systemic gender discrimination in compensation for work performed by employees in female job classes."

i. Issues arising from the objectives of the Pay Equity Act

The express impetus for the *Pay Equity Act* was to reduce the gender wage gap. For example, the *Green Paper* issued by the Ontario government in 1985 described the goal of the contemplated legislation as the elimination of one-quarter to one-third of the then 32% wage gap. However, the statute itself does not define its goal in these terms. It aims to reduce or eliminate discrimination in compensation for female work, whether that work is performed by women or by men. While measures of the wage gap compare earnings of women to earnings of men, the *Pay Equity Act* only aims to reduce the wage gap indirectly, to the extent women actually perform women's work more than men. Since it defines a female job class as one that consists of at least 60% women, it is possible that a significant number of men (up to 40%) might see an increase in their earnings as a result of the *Pay Equity Act*. In other words, the law's goal is to correct the financial penalty associated with the femaleness of jobs ("systemic discrimination in compensation"); only secondarily is it directed to reducing the gender wage gap, which is measured by comparing wages of workers.

A related point about the goal of the legislation emerges from its reference to "employees in female job classes." Pay equity initiatives are often described as aimed at the problem of occupational segregation, that is, the fact that women and men tend to work in different jobs, and that wage rates are lower for women's jobs. However, as discussed earlier, occupational segregation can take different forms. Men and women may work at different levels in the same occupation (vertical occupation segregation); or they may work in different occupations (horizontal occupation segregation). Each kind of occupational segregation may exist at each economic level: within establishments (or employers), sub-industries, industries, and sub-sectors. Ontario's law only addresses horizontal occupational segregation at the establishment level, that is segregation that occurs between job classes for a single employer. (The cross-establishment comparison permitted by the proxy method only applies to public sector employers.) Differences in pay, even discrimination in pay, arising from the fact that women and men work for different employers, in different industries and sectors, or within a single occupation or job class are not part of what the *Pay Equity Act* aims to correct.

Thus, the stated goal of the *Pay Equity Act* is significantly narrower than the goals of those who support pay equity in general. It only aims to redress discrimination in compensation between female and male job classes, not between female and male workers; it only addresses the discount for female work between occupations within a single employer, not within occupations (or job classes) or between employers. It is important to keep this goal in mind when assessing the effectiveness of the law, both internally, in terms of the mechanisms it stipulates to achieve the goal, and externally, in terms of its impact on discrimination in compensation of female job classes in Ontario.

ii. Issues arising from the way the law sets out to achieve its goal.

Three internal aspects of the *Pay Equity Act* significantly shape its ability to achieve its goal. They are the scope or coverage of the law, the process it mandates for determining discrimination in compensation between job classes, and its maintenance and enforcement mechanisms.

(a) Scope of the statute

The *Pay Equity Act* applies to both public and private sector employers, excluding private sector employers with fewer than ten employees. Students working in summer jobs, are also excluded. While the law has received widespread praise for its application to the private sector, its exclusions have been criticized. Commentators have pointed out that gender-based discrimination in compensation is certainly not any less likely to occur among those excluded from the scope of the law, yet these workers, who are more likely to be economically vulnerable, do not have any legislative protection. However, there has been considerable debate in the literature about whether pay equity laws have any real effect on small employers. Some have suggested that employers with fewer than 20, 50, or even 100 employees ought to be excluded on the basis that job evaluation and comparison methodology does not really work in firms with fewer employees. The legislative exclusion of very small private sector employers represents a compromise between these two views.

(b) Mechanism for determining discrimination in compensation

The *Pay Equity Act* mandates a complex comparison process that has attracted criticism from both proponents and opponents of pay equity legislation. The comparison required is between job classes, not between jobs. The legislation also allows employers in certain circumstances to group a number of job classes into a single job class and to treat different establishments of the employer as a single establishment. These features, in conjunction with the definition of a female job class as containing as few as 60% women, have been criticized for allowing employers to obscure significant gender-based wage differentials within the job class so that the job rate for the class, which is the highest possible rate for the class, appears much closer to the job rate for the comparator male job class than the actual wages of most of the female workers in the class (see McDermott, 1999).

More fundamentally, the crux of the statutorily-mandated comparison process, the means by which the assessment of whether discrimination exists gets made, rests on the concept of gender-neutral job evaluation. Increasingly, proponents of pay equity are critical of job evaluation as a reliable way to achieve pay equity. Many of those with whom I spoke in Ontario expressed dissatisfaction with this approach. The theoretical criticisms of job evaluation I set out earlier in this report apply to the process at the heart of the Ontario law and contribute to its unreliability.

In an effort to address the concern that the subjectivity inherent in evaluating jobs on the basis of skill, effort, responsibility and working conditions allows gender-biased assessments of those criteria to influence evaluations, the *Pay Equity Act* requires job comparison systems to be "gender-neutral" (Gunderson, 2001). However, by failing to define what "gender-neutral" means, the statute does little more than express an aspiration (Fudge, 1991). It does not tell employers how to ensure that their systems are gender-neutral, even though the extensive literature criticizing various job evaluation systems for non-neutrality demonstrate that gender-neutrality can mean different things to different people and achieving it can be very hard (McDermott, 1999; Weiner, 1991; Weiner and Gunderson, 1991; see also Gunderson, 2001).

In certain circumstances, the *Pay Equity Act* allows for different pay equity plans within an establishment and does not require that the same gender-neutral job comparison system be used in each plan within the establishment. This can make it difficult to compare jobs across plans and may prevent a female job class from being matched with the closest male comparator (McDermott, 1990).

The *Pay Equity Act* does not provide any way to achieve pay equity for persons in female job classes working for private sector employers for whom the job-to-job method and the proportional value method do not identify a male comparator (that is, in workplaces without any male job classes). One could argue that pay equity is a relative concept that compares jobs within establishments, so the lack of male comparators in a firm means there is no undervaluation of female jobs in that firm on a pay equity analysis. But if we focus on the gender effect, the depression of wages in predominantly female jobs might be just as great in firms with only female job classes. Without a way to value and compare them, the gender effect in such jobs persists.

This problem posed by such workplaces illustrates a conceptual uncertainty about pay equity that I discussed earlier. To the extent that we believe that employers with no male job classes "undervalue" their female job classes, we are relying on a more absolute conception of value than the relative value to the employer of predominantly male and female jobs. If that is the case, pay equity is less about correcting a gender skew in individual employers' compensation practices, and more about replacing the market with non-market based ideas of the value of different types of work.

In fact, surveys of the impact of the *Pay Equity Act* suggest that the inapplicability of the job evaluation and comparison process to workplaces without male job classes significantly reduced the reach of the law. Among the largest employers (500+), 30% of female job classes lacked male comparators. The percentage of unmatched female comparators rises as employer size decreases: 45% of female job classes in employers with 50-99 employees had no male comparators. (McColgan, 1993; Canadian Facts, 1993). In his 1995 study, Gunderson reported that, before the 1993 amendments, 31.5% of public sector firms and 27.5% of private sector firms made no pay adjustments because they could not find any male comparators.

The legislation has been criticized for the way that evaluated job classes are compared. It requires that the job-to-job method be used initially. Only for female job classes for which there is no male comparator on the job-to-job method can the proportional value method be used. The proportional value method is less reliable when applied to employers with few male job classes because a wage line linking two or three male job classes is more likely to be affected by anomalies than a wage line that emerges out of the distribution pattern of many male job classes. However, the proportional value method is superior to the job-to-job method in that it allows every female job class to be compared, not only those for which there is a male job class of comparable value. Where the job-to-job method generates more than one male comparator, the *Pay Equity Act* requires female job class to be compared to the male comparator with the lowest job rate.

Writing in 1995, Lynda Ames was of the view that the comparison process at the heart of Ontario's *Act* is so flawed that it "nearly requires that inequities will remain" after the legislation has been applied. She tested the comparison processes in the Ontario law against Manitoba's public sector statute by assessing the same set of job worth data from the health care industry using the comparison process mandated by each statute:

> ...[T]he Manitoba plan effectively removes gender effects from the wage setting but the Ontario plan does not. Indeed, Ontario's policy even results in new, capricious instances of inequity. These differences result from Ontario's policy of stipulating only that the wages of female-dominated jobs be no lower than the wages of whatever male-dominated job in the same worth category happens to be the most poorly compensated, versus Manitoba's reliance instead on the overall wage structure of male-dominated jobs as the standard for the wages of female-dominated jobs. (Ames, 1995: 723)

(c) Maintenance and enforcement

The *Pay Equity Act* addresses pay equity in two stages. During the initial implementation period, every employer to which it applies is required to achieve pay equity as defined by the statute. After the implementation period has expired, every employer is required to maintain pay equity in its compensation practices. But the law gives very little attention to what maintenance of pay equity means. For example, although most employers are required to develop pay equity plans, there is no requirement that the plan spell out how pay equity is to be maintained, or for employers to periodically review their compensation practices to ensure they remain gender neutral. The lack of detail on maintenance was a major focus of the recommendations in the Read Report but, as noted, these recommendations were not implemented.

The legislation's enforcement mechanisms have been controversial. Perhaps most contentious has been the fact that the law does not require employers to file pay equity plans, or to report on compliance, or to disclose the amount of any pay adjustments. This has made it almost impossible to measure the impact of the *Pay Equity Act*. However, any outside scrutiny of plans would have been extremely expensive, particularly if the reviewers were required to assess job evaluations and the application of comparison methodologies. Quite apart from the expense, however, the drafters deliberately minimized outside review because they wanted pay equity to be a self-managed process. It was intended that pay equity interfere as little as possible with private wage-setting practices and, in particular, with collective bargaining. The legislation required employers to negotiate all aspects of the pay equity plan with unions representing their employees, largely trusting that such negotiated plans would achieve the legislative goal (Kubasek, 1994; McColgan, 1993). While employees can make complaints under the *Pay Equity Act* against their employers, there is no such provision to make a complaint against a union.

The self-managed process has its supporters and detractors. Some have praised the statute for its sensitivity to the collective bargaining process, and its recognition of unions as full partners in the achievement of pay equity; others, including some of the review officers with whom I spoke, have worried that union commitment to pay equity is uneven. Unions gain leverage from the *Pay Equity Act* and, despite some legislative safeguards, some have worried that pay equity can be inappropriately used as a bargaining chip to achieve other collective bargaining goals (Canadian Labour Congress, 2001; Kubasek, 1994; Read, 1996).

The main enforcement mechanism other than union vigilance is complaints-based. Employees and/or unions can object or make complaints during and after the implementation period. Three features of the statutory complaints process significantly ameliorate some of the disadvantages of complaints as an enforcement mechanism. First, complaints are assigned to review officers who are expressly charged with investigating and trying to resolve the problem expeditiously and informally. This hands-on, less adversarial process facilitates negotiated and workable solutions, increasing the likelihood that disputes will be resolved to the satisfaction of the parties and the process will move forward without getting bogged down in the time and expense of formal adjudication. The ability of review officers to fulfill this crucial function depends on their possessing adequate expertise, having the resources to respond quickly to complaints, and commanding the respect of the parties. Second, the existence of an independent advocacy clinic (PEALS) was critical to non-union workers trying to assert their statutory rights. Without such a resource, unrepresented women would have had no effective access to the enforcement mechanisms in the *Pay Equity Act*, because of the very real chilling effect on making a complaint against one's current employer. Third, review officers have the power to independently investigate employers for compliance with the law and to make complaints on their own initiative. This ability has supported the sectoral monitoring project currently under way and, together with the ability to make anonymous complaints, allows for some protection of particularly vulnerable workers.

Any complaint that is not resolved satisfactorily at the review officer level can be appealed to the Pay Equity Hearings Tribunal. Tribunal hearings are by three-person panel and are quasi-judicial. This kind of adjudicated dispute resolution almost always requires legal representation, as its procedures and arguments are complex. Adjudication by the Tribunal is a last resort. While no one disagrees that it is necessary to provide for formal adjudication of disputes, an important measure of the success of the legislation is actually how little need there is for formal dispute resolution, as it is a cumbersome and expensive process.

Three issues have been the subject of a great deal of litigation: who is the employer, defining the establishment, and what comprises a gender neutral job comparison system (Kubasek, 1994; Fudge, 1991t, Handman and Jensen, 1999). This suggests that the legislation is not sufficiently clear in these areas. The fact that almost every significant case heard by the Tribunal was taken by a union rather than by unrepresented employees (McDermott, 1999) suggests that the formal dispute resolution mechanism is not adequately accessible.

Those critical of the *Pay Equity Act*'s enforcement mechanisms have mostly pointed to its failure to provide for any systematic monitoring of compliance. Low compliance rates in some sectors (discussed below) have added credence to the view that pay equity legislation cannot really work without some effective, universal way to monitor what employers do under it (McColgan, 1993; Fudge and McDermott, 1991; Canadian Labour Congress, 2001). However, the kind of detailed scrutiny of compensation practices, job evaluation and comparison methodology that would be required to effectively enforce the legislation universally makes such enforcement prohibitively expensive. Reliance on unions to ensure compliance through negotiation with provision for resort to a complaints-based dispute resolution process appears to have worked reasonably well for the organized sector, at least where there is union commitment to pay equity. It has worked much less well for workers who are not represented by trade unions. Although the *Pay Equity Act*'s complaints process significantly improves on the traditional passive complaints enforcement model in the ways described above, these modifications may not be effective to enforce the legislation in non-union workplaces.

c) Assessing effectiveness of the *Pay Equity Act*

Assessing the effectiveness of the *Pay Equity Act* under any measure is hard because it contains no reporting requirement. Surveys conducted by the Pay Equity Commission and independently, along with anecdotal evidence, can give some sense of its impact in terms of compliance rates, who received increases in pay, the costs of the legislation, and its effect on sex-based wage disparities.

i. Compliance

With respect to compliance rates, all of the information I gathered consistently pointed to greater compliance by larger employers, by unionized employers, and by public sector employers (Read, 1996; McDonald and Thornton, 1998; Baker and Fortin, 2000; Fudge, 1996). The Read report described extensive non-compliance among employers with fewer than 100 employees. Baker and Fortin's study described the non-compliance rate among firms with under 50 employees as closer to 90% than the more-generally cited 80% figure. McDonald and Thornton's 1994 study of 27 Toronto firms, 21 of which had over 500 employees, found a 37% non-compliance rate.

It is important to remember that "compliance" is measured only superficially. The lack of a substantive monitoring system or surveys that actually evaluate employer's pay equity plans means we cannot know whether the legislative goal of eliminating systemic gender discrimination in compensation for female job classes is really achieved by those employers who appear to be complying with the legislation. For example, I was told of a pay equity consultant who had developed software that could run variations of a point factor job evaluation against a set of job data to simulate various outcomes and allow the employer to design a job comparison system that would minimize or eliminate any pay adjustment. Manipulation of job evaluation and job comparison so as to hide gender-based inequalities in pay is extremely hard to uncover under this legislation.

The pattern of compliance also provides some insight into who benefited from the legislation. Someone who works for an employer who has complied with the *Pay Equity Act* is obviously more likely to receive a pay adjustment than a worker who works for a non-complying employer. But compliance does not necessarily result in pay increases: McDonald and Thornton reported that of the firms they examined who had complied with the law, 19% found it unnecessary to make any pay adjustments. Fewer than 20% of the female workers in firms that made any pay adjustments actually received increases (McDonald and Thornton, 1998; Gunderson, 1995 reports the same percentage). In Morley Gunderson's 1995 study based on data from surveys by the Pay Equity Commission he repeated that despite evidence that "wage discrimination" is greater in the private sector than in the public sector, private sector wage adjustments averaged 1.1% of payroll, about half of the average public sector pay adjustment. The two main reasons for no adjustment were that there was no male comparator and that there was no wage gap between comparable female and male job classes (Gunderson, 1995; Read, 1996). Who receives pay adjustments also corresponds with the nature of the work done: clerical work tended to attract pay adjustments far more than sales or service jobs (Read, 1996). The Read Report also records concern expressed by employer associations, unions, advocacy groups and consultants about "differing pay equity outcomes among workplaces in the same sector" (1996: 17).

During the course of my research, I heard about substantial wage increases in particular cases. Many of these stories focussed on the public rather than the private sector. For example, CUPE reported that it bargained about 1600 plans in 1987 in Ontario with an average $2.00/hour increase for female job classes. Such evidence is also found in the annual reports published by the Pay Equity Commission. To take two examples of private sector employers from its 1989/90 report, the Commission described one province-wide retail food chain as having matched a female job class of cashiers and meat-wrappers to the male job class of stock clerk, resulting in a $1,471 annual wage increase for the cashiers and meat-wrappers. In a department store chain, sales clerks were compared to material handlers and received a wage increase of $1.15 per hour.

Overall, however, Judy Fudge's description of the inadequate impact of the legislation appears sadly accurate. She says that the ability of women workers in Ontario to increase their pay under the *Pay Equity Act* depends on the following factors: the sector in which they are employed, whether they are unionized, the existence of an appropriate male job class as a comparator, the size of their employer's workforce, and whether or not they are employed on a causal or temporary contract basis. Precisely those factors which are correlated with low wages (private sector, non-union, no male comparator, small employer, casual/temporary contract worker) are the factors that mean that the legislation does not apply, either formally, or in practice because of low compliance. Handman & Jensen write that "it is really only those female workers in large organized workplaces who stand to benefit from pay equity legislation" (1999:86).

Others point to an even narrower group of primary beneficiaries, namely, workers in female job classes represented by female-dominated unions. Sue Findlay notes that union women have been at the forefront of advocating for pay equity and pay equity works best for women in unions (Findlay, 1991; Armstrong & Armstrong, 1991). This is not to suggest that the workers who received pay adjustments under the *Act* should not have received them; it does indicate that, based on what we know independently about the economic vulnerability of groups of workers, the most economically vulnerable and most likely to experience gender-based wage discrimination did not effectively benefit from the legislation (Gunderson, 2001). If pay equity is mostly only effective for women represented by unions, this does not mean pay equity should be abandoned; it does suggest that it might be confined to the settings where it works.

ii. Costs of the legislation

Turning to the costs of the legislation, it is useful to distinguish administrative costs (those associated with implementing the processes required by the statute) from substantive costs (the amount of any pay adjustments). In my research, I found that administrative costs were perceived to be high relative to substantive costs, and that administrative costs were significantly more onerous for smaller employers (who also tended to make lower pay adjustments). A study of small and medium-sized employers by the Canadian Federation of Independent Businesses reported that the average cost of consulting fees to conduct the mandatory job comparison process was $5,335, whereas the average pay adjustment as a result of that process was $3,947. The Read Report also refers to employers' perceptions that the costs and time spent on the process are too onerous:

> ...I learned that considerable time and money had been spent on developing gender neutral comparison systems, negotiating pay equity plans between the bargaining agent and the employer and litigating outstanding issues. For some smaller private sector employers, the cost of compliance sometimes exceeded the actual adjustments paid. (Read, 1996: 4; See also McDonald and Thornton, 1998)

Since smaller employers are less likely to have human resources staff and formal job descriptions or job evaluation systems, they will tend to incur more costs in implementing pay equity than larger employers who usually have such resources and processes in place. Larger employers who were used to job evaluations found it easier to adapt their compensation practices to the legislation than smaller employers for whom job classes, job evaluation, job comparison, and job rates were unfamiliar concepts.

The substantive costs of pay adjustments for firms that complied with the law were not as onerous as many had predicted, since many employers found no male comparator or no wage gap requiring a pay adjustment. McDonald and Thornton, whose study focussed on large employers (500+), reported average pay adjustments of less than 1.5% of payroll. Gunderson reported that the average adjustment was 2.2% of payroll in the public sector and 1.1% in the private sector. Large private sector employers (500+) paid out only 0.6% of payroll, whereas smaller employers' adjustments cost 1.1%.

Other anticipated costs of the legislation do not seem to have transpired as predicted. For example, there were no significant disemployment effects (fewer people being hired into female jobs because of increased wage costs) or disruption of Ontario's economy (McDonald and Thornton, 1998). Others worried that, in the long run, pay equity might reduce mobility out of low-paying jobs since it reduces the wage differential as an incentive for leaving. Whether Ontario's *Act* has had these costs is not known.

iii. Impact on sex-based wage disparities

Much of the literature assessing the impact of Ontario's pay equity law has looked at its impact on sex-based wage disparities, specifically the gender wage gap. As I have said, the law did not directly aim to reduce the gender wage gap, so it is not entirely fair to criticize it for not doing so. Although pay equity is widely described as a response to occupational segregation, by its own terms, the *Pay Equity Act* could only address horizontal occupational segregation within establishments, so measuring its impact on occupational segregation generally would also not really be fair.

With these caveats in mind, what has been the effect of the *Pay Equity Act* on sex-based wage disparities in Ontario's private sector? Not surprisingly, people disagree. Almost everyone acknowledges that its impact has been less than expected both because of its internal limitations, such as the requirement for a male comparator within the establishment and the low ceiling on adjustments, and because of its external limitations, such as low compliance rates and uneven enforcement. Still, those directly involved with the legislation, such as review officers and pay equity consultants, told me that the legislation has had some success in reducing the gender pay gap.

By contrast, in their empirical investigation into the impact of the Ontario law, in which they compared changes in sex-based wage disparities between Ontario and Quebec (which had no proactive pay equity law at the time), Baker and Fortin (2000) reported that there was no strong empirical evidence of a positive effect on women's wages. Baker and Fortin also found that, all else being equal, full-time female workers and female non-union workers suffer a wage penalty for working in predominantly female jobs. However, any increases in earnings over the period they studied were equally evident in male, female and gender-neutral jobs. They found that the gender wage gap closed at similar rates in both provinces, and that both provinces saw an increase in the gender effect during the period. Among larger Ontario employers whose compliance rates were significant, they reported that wage gains to women were slight. They wrote, "Our most consistently estimated effect is suppressed wage growth: for women working in male, especially blue collar, jobs, and to a lesser extent males working in female jobs" (Baker and Fortin, 2000: 29).

While some aspects of Baker and Fortin's analysis have been criticized (for example, in the submission by the Canadian Centre for Policy Alternatives), no one has demonstrated empirically that the legislation has made significant inroads on the earnings gap. In my view, such proof is unlikely, since this is not what the legislation set out to do, and its general impact is known to have been slight. What would be more interesting and relevant given the purposes of the legislation would be to measure the wage differentials attributable to horizontal occupational segregation within establishments before the legislation was enacted and compare them to current rates. That would be a measure of the effectiveness of the legislation according to its stated goals. However, I am not aware of any such research. We simply do not know in any reliable way what the impact of the *Pay Equity Act* has been, measured in light of its goals.

d) Strengths and weaknesses of the legislation

The Ontario *Pay Equity Act* was innovative for its time. It was the first legislative effort to mandate a proactive pay equity initiative in the decentralized private sector of the labour market. As such, its designers faced formidable challenges. Judged with the advantage of hindsight, the legislation has strengths and weaknesses which are instructive for any jurisdiction looking to pay equity as a means of redressing sex-based wage disparities.

i. Strengths

As I see it, the legislation has four major strengths: its success in raising awareness and educating people about the concept of equal pay for work of equal value, the way that the legislation relies on existing collective bargaining relationships, its adoption of a proactive approach to implementation and enforcement, and the political commitment supporting the legislation, particularly as expressed in the allocation of funding for its implementation.

(a) Education and awareness-building

From the very beginning, those involved with the design and implementation of the *Pay Equity Act* recognized the importance of educating employers, employees, and business and labour associations about the concept of equal pay for work of equal value generally, as well as the provisions of the statute.

The outreach campaign was conducted at a number of levels, from simply-worded posters through educational materials and seminars. Care was taken to design education and awareness-raising initiatives that would be effective in reaching diverse groups of workers and employers. Staff saw their role as assisting employers to understand and comply with the law, rather than as simply enforcing the law against them. In my discussions, I heard a lot of praise for the Commission's education and information outreach efforts.

One perhaps unanticipated side-effect of the outreach campaign was the light it shed on the right to equal pay for equal work. Many women became aware of this right, long-enshrined in Ontario's *Employment Standards Act*, for the first time as a result of the pay equity outreach effort. Both PEALS and the Commission received many calls that were really about equal pay for equal work violations, not pay equity. Although I have not been able to document the number of these inquiries, those with whom I spoke were convinced that violations of equal pay for equal work are still prevalent.

Important gains in awareness and understanding were also made through application of the job evaluation process mandated by the statute. While job evaluation has been criticized as a method of achieving pay equity generally, and the particular form it takes in the *Pay Equity Act* is also flawed, in a number of instances the process brought insight to employers about gender bias in their compensation practices. Review officers and others who have been directly involved in the implementation of pay equity in particular workplaces told me about how examples of overlooking skills or adverse working conditions in stereotypically female work made employers -- and the workers themselves -- stop and re-think some of their assumptions about what certain work is worth. Examples now common in the pay equity literature of how a wage premium is associated with adverse working conditions, like dirt in male jobs (grease and grime in a mechanic's job), is overlooked in female jobs with similar adverse working conditions (vomit and urine in a nursing job) were developed from actually doing job evaluations in particular workplaces.

One review officer told me that women as well as men may have over-inflated ideas about the value of their own work and may under-appreciate work done predominantly by the other gender. The women in the front office have as much to learn as the men in the plant about the skill, effort and responsibility involved in stereotypically male or female jobs. Further, where employers approach the process with a positive mindset, doing job evaluation can be a way to rationalize their compensation systems and achieve internal equity (where all jobs, male, female and gender neutral, are compensated according to a rational, gender-neutral set of principles) (Read, 1996).

(b) Reliance on collective bargaining

While some concerns have been expressed about the extent to which the *Pay Equity Act* relies on unions to ensure the effective implementation of pay equity, the significantly higher compliance rates among unionized employers suggests that this was an effective strategy. The statute contains some safeguards against pay equity being traded away in the collective bargaining process (and perhaps it should have contained more), but generally, unions are much better placed to negotiate initiatives suitable for the particular workplace rather than an external government bureaucracy. Achieving pay equity through existing union-employer relationships fits comfortably within collective bargaining and limits government intrusion in the private sector. I believe a self-managed approach is the only workable way of implementing pay equity in the private sector. While some reporting requirement (for example, of pay adjustments) would have been very helpful to document compliance and impact, a full-scale review of pay equity plans would not be feasible. One can readily imagine the backlogs and uncertainty that would ensue.

(c) Proactiveness

The proactive approach to implementation and enforcement is a third strength of the *Pay Equity Act*. Creating a positive obligation on employers to take steps to achieve the legislative goal and specifying very clearly what those steps are is clearly preferable to defining an abstract right in relation to a complex social problem and relying on complaints to make it real. Having review officers promptly respond to complaints and concerns with the object of negotiating workable solutions rather than enforcing a pre-determined interpretation of the legislation was a much better model than the equally (and likely more) expensive investigations conducted by the Canadian Human Rights Commission, with their more adversarial focus of building a case against the employer. In the area of gender-based economic equality initiatives, the proactive model is far superior to a complaints-based model.

(d) Political commitment

Finally, and perhaps most importantly, the government of Ontario committed enough funding to effectively support the implementation of the legislation. The effectiveness of the outreach and education campaigns, the seminars and publication of all kinds of materials, the telephone hotline that efficiently responded to so many queries, and the expertise of the review officers are all attributable in no small way to the funding that supported them. Often, the passage of legislation is the foremost expression of political support for an initiative. However, without concrete expression of that commitment in a budgetary allocation, the ideals expressed in the statute cannot be effectively unrealized. That was not the case with the *Pay Equity Act*. The problems with compliance and in the *Act's* impact were deficiencies in the statute itself, not in the funding allocated to support it.

ii. Weaknesses

Against these strengths must be set the weaknesses of the legislation. In the following discussion, I have focused on issues other than the central question of whether job evaluation-based legislated pay equity is a good way to address sex-based wage disparities. I address that issue below,. in the section entitled "Comments on Canadian Pay Equity legislation." Here, I focus on four features of the statute that I consider unsuccessful, whether or not the underlying legislative model is worth adopting here. They are: the statute's complexity and consequent costs, its lack of attention to maintenance of pay equity, its uneven and slight impact, and the sense it generates that the problem has been solved.

(a) Complexity and cost

The costs of the legislation that concern me most are intertwined with the complex process it mandates for implementing pay equity. While the underlying concept of equal pay for work of equal value may be simple in the abstract, it is complex in practice. Although the Pay Equity Commission did a laudable job of providing education to make the *Pay Equity Act*'s requirements clear to employers of various sizes and sophistication, they had an uphill battle. The three-volume guide to implementing pay equity for small businesses, which includes a workbook, a guide to job evaluation using the job-to-job method and a guide to using the proportional value method is well-written, but a far from easy read. While employers familiar with job evaluation concepts and used to using job descriptions (and with the staff to do so) may not find the process difficult, it is very onerous for other employers (Read, 1996). Both the temptation to turn the whole thing over to a paid consultant, and the inevitable resentment at then having to pay a significant bill for a service that was not wanted or understood, are great.

Although I have limited evidence of the administrative costs to employers other than the Canadian Federation of Independent Business study referred to above, I heard many stories about how onerous the process was in terms of time and money, both from those in Ontario and in some of the submissions I received from British Columbia businesses and related organizations who were familiar with or worried about the Ontario model. Interestingly, I heard many more complaints about the cost of doing job evaluation and comparison than of making pay adjustments.

I think the cost and complexity of the process mandated by the *Pay Equity Act* is a significant weakness. The important goal of raising awareness about gender-based inequities in compensation is undermined when it gets lost in the technicalities of a poorly-understood, complicated process, or when it is simply handed over to an outside consultant. Quite apart from the various concerns about the details of the process mandated by the law it is too complex in practice for those employers least able to bear that cost.

(b) Maintenance of pay equity

All of the detail and specificity that accompany the implementation of pay equity are missing from the requirement to maintain it. With respect to maintenance, the legislation creates little more than an abstract right and, except for the Review Services Branch's sectoral monitoring project, is minimally effective. It is unfortunate that the energy, thought, and money that were devoted to the implementation phase did not carry through to the much-longer maintenance period. While the implementation process is arguably overly complex, particularly for employers who lack the infrastructure to support it, the maintenance aspect of the law errs of the side of being under-defined. The Commission has made efforts to specify what maintenance means but, lacking clear legislative direction, and with the change in government, its ability to supply what is not in the statute is limited. There is a real danger that, particularly in non-union workplaces, Ontario's pay equity law will have little ongoing impact (Gunderson, 2001).

(c) Impact

I have described above what we know about the impact of the legislation. While I acknowledge its positive impact on some workers, the fact that it had much less impact on the most economically vulnerable, non-union workers and those who work for smaller employers, is a substantial weakness. The *Pay Equity Act* was intended to bring pay equity to the private as well as the public sector. Its low private sector success rate means it did not really achieve this goal. The available evidence shows that sex discrimination in compensation practices is likely greater in the private sector than in the public sector, among non-union over union employers and smaller over larger employers (Gunderson, 1995). Yet these are the workers for whom the legislation was least effective.

(d) Treating the problem as solved

A final weakness of the legislation is the sense that it creates that the gender wage gap has been "solved". In much of the literature on the Ontario *Pay Equity Act* and in many of the discussions I had about it, constant reference was made to pay equity having been "achieved" when an employer complied with the statute or simply when the implementation deadlines had elapsed. This phrase equates compliance - or worse, the passing of time - with solving a complex social problem that the legislation did not even aim to address comprehensively.

In 1991, Patricia McDermott concluded that the question for advocates of pay equity in jurisdictions with no pay equity legislation is whether weak legislation, as she characterized the Ontario law, is really any better than no legislation at all (1991:31). McDonald and Thornton reported that the low number and amount of wage adjustments as calculated under their pay equity plans convinced employers that there was no real problem of discrimination in compensation (1998: 192). More worrying, I think the "achievement" of pay equity in Ontario may lead many to conclude that economic equality for Ontario women has also been achieved, removing many needed initiatives from public and political debates. Sue Genge expressed a similar concern:

> [A] major problem for pay equity practitioners in the proactive provinces is the widespread view that pay equity has been done and accomplished there. The fear is that the political will to fight for better laws or better collective agreement provisions is absent - both from unions and from the legislatures. Activists in these provinces remember the battles involved in achieving the legislation and many feel that such campaigns would be very difficult to mount in the current economic climate and particularly in the face of a "been there: done that" attitude which seems to be fairly widespread. (1994: 6-8)

In the long run, I believe this may prove to be the *Pay Equity Act's* greatest drawback.

2. *Quebec's legislation*

Quebec's proactive pay equity law was enacted in 1996 and was modeled on the Ontario statute. The process that led to its enactment was similar in some respects to what had occurred in Ontario. Prior to the passage of the *Loi Équité Salariale*, Quebec had entrenched a right to equal pay for work of equal value in its human rights statute. Section 19 of the Quebec *Charter of Human Rights and Freedoms* provided:

> Every employer must, without discrimination, grant equal salary or wages to the members of his personnel who perform equivalent work at the same place.

Case law had interpreted "equivalent work" as work of equal value, judged on the basis of job evaluation (Cihon, 1988). Section 19 was enforced through the complaints-based human rights process and, as such, was very similar to s. 11 of the *CHRA*. While there were a few complaints by women in unskilled positions, by the late '80s, most complaints were by public sector unions on behalf of professional employees in female predominant job classes (Cihon, 1988).

Dissatisfaction with s. 19 precipitated the formation of a feminist/labour alliance, just as in Ontario. Quebec's Equal Pay Coalition succeeded in making pay equity a campaign issue in the 1994 provincial election. Various governmental consultations on pay equity ensued, including a 1996 survey which reported that there was a social consensus in favour of a proactive pay equity law. The same kinds of lobbying efforts as were seen in Ontario by business groups and by the Coalition significantly shaped the final bill (Murphy, 1997). The *Loi Équité Salariale* was passed in November 1996 and came into force one year later.

The Quebec statute's statement of its purpose is virtually identical to that in the Ontario legislation. It aims to redress systemic gender discrimination in compensation for female job classes. What jobs fall within a job class is determined much as it is in Ontario. However, both male and female gender predominance is generally found where at least 60% of the job class belongs to one sex. (In Ontario, the general rule was 70% for male predominance.) The Quebec statute contains an additional purpose statement explicitly stating that comparisons are to be made within the enterprise, and allowing for the possibility that comparisons may be made across enterprises if there are no male comparators within the enterprise. This suggests a broader legislative goal than in the Ontario law. However, the broader objective may remain unrealized: outside comparisons may only be made as set out in regulations adopted by the Commission Équité Salariale or Pay Equity Commission (CES); to date, five years after the passage of the law, no such regulation has been adopted.

The legislation covers employers in all sectors who employ ten or more employees. In this respect, it is narrower than Ontario's law, which covered all public sector employers regardless of size. Given the ineffectiveness of job evaluation and comparison in very small employers, this difference may be more apparent than real. "Employees" includes full and part-time workers, as well as temporary and contract workers, but excludes students, trainees, police officers, firefighters, senior managers, those in labour market entry programs, and independent operators (unlike Ontario, which only excludes students). The determination of what differences in compensation must be equalized is akin to the Ontario law. It is premised on gender neutral job evaluation, whereby the value of jobs is determined by reference to the composite of qualifications ("skill" in the Ontario *Pay Equity Act*), effort, responsibility, and working conditions, followed by comparison of female job classes to appropriate male job classes.

The Quebec law contains several noteworthy differences with respect to the job evaluation and comparison processes that are central to the legislation. First, comparisons are generally to be made across the employer's "enterprise", not across each "establishment" (the term used in Ontario). "Establishment" is a geographic definition: the Ontario statute divides Ontario into several regions so that an employer will usually have different establishments in different regions. Although "enterprise" is not defined in the Quebec statute, case law under Quebec's *Labour Code* adopts a functional rather than a geographic definition, which may mean that an "enterprise" is more likely to yield useful comparators than an "establishment".

More importantly, Quebec's law contemplates a norm of one pay equity plan for the enterprise, whereas Ontario's law requires a separate plan for each bargaining unit and for non-union employees. Although Quebec's law allows for different plans within an enterprise in some circumstances, and both statutes permit a single plan for more than one enterprise or establishment in certain cases, Quebec's general rule of one plan per enterprise means that all predominantly male and female jobs in the enterprise are more likely to be consistently evaluated under the same plan.

Second, Quebec's law abandons the legislative preference for the job-to-job comparison method that was the focus of much criticism in Ontario. Either job-to-job or proportional value comparisons may be used.

Third, Ontario's restriction of pay adjustments to the lowest male comparator where there is more than one comparable male job class does not appear in the Quebec statute. Instead, in such cases the pay for the female job class must be increased to the average of all comparable male job classes.

Fourth, where there is no comparable male job class within the enterprise, Quebec's law expressly requires employers to make pay adjustments according to comparators set out in regulations adopted by the CES. To date, the CES has not adopted such regulations for either private or public sector employers. By contrast, the *Pay Equity Act* adopts a proxy method of comparison where there are no male job classes in a public sector establishment.

Fifth, while both statutes contain similar exceptions for employers to justify continued differences in pay, the Quebec law abandons the much-criticized exception for merit or performance-based compensation systems. Instead, it contains additional exemptions based on regional wage disparities and lack of access to benefits for temporary, casual and seasonal positions. These two exemptions limit the potential impact of adopting a non-geographical definition of enterprise and of including temporary, contract and seasonal workers in the scope of the legislation.

The process stipulated in the Quebec statute for achieving the legislative goal is more complex than Ontario's. The same distinctions are made between of employers of different sizes (those with 10-49 employees, those with 50-99, and those with over 100 employees) with the smallest employers having the fewest specific obligations. There are five main differences in the process required of employers.

First, the Quebec law introduces the concept of a Pay Equity Committee. These are mandatory for employers of over 100 employees; they are optional for those with fewer employees (but those employers who choose to create Pay Equity Committees must comply with the requirements in the statute). The basic function of the Pay Equity Committee is to develop and administer the pay equity plan for the enterprise: it identifies predominantly male and female job classes, selects the method of job evaluation, evaluates jobs, selects and performs the comparison process, calculates compensation adjustments, and advises the employer on setting terms and conditions of payment. Its composition and functions are set out in great detail in the statute. It must have between 3 and 18 members, one-third of whom represent the employer and two thirds of whom represent the employees. The employee representatives must be 50% female, and all bargaining units to be covered by the plan as well as non-union employees must be represented on the Pay Equity Committee. Predominantly male and predominantly female job classes must also be represented. The employer must provide appropriate training for Pay Equity Committee members and allow them time to meet and perform their work, during working hours and with pay. The employer is obliged to disclose otherwise confidential information about jobs and compensation necessary to the Pay Equity Committee's work; its members are obliged to keep the information confidential.

Second, for medium and larger sized employers (those with 50 or more employees), there are two points at which information about the process must be posted so as to inform their employees: the first posting must contain information about what predominantly female and male job classes have been identified within the plan or enterprise and describing the selected job evaluation method and process. The second posting occurs after the comparison process is completed: it contains information about the values of and comparisons between female and male job classes, any required adjustments, and the terms and conditions for paying the adjustments. Employers with fewer than 50 employees are only required to post the results of whatever process they have chosen to take to achieve pay equity. Under Ontario law, only a single posting of the pay equity plan (which contains all the information in both of the Quebec postings) is required. Arguably, the two-stage posting in the Quebec law provides more opportunity for direct employee input.

Third, the Quebec law differs somewhat in the way that it integrates pay equity with collective bargaining and in its recognition of the role of unions. Generally speaking, the legislation imposes more specific obligations on unions to negotiate plans, to maintain pay equity when negotiating collective agreements, and to include any pay equity plan in the collective agreement. Curiously, the legislation expressly excludes the participation of unions in situations where the employer had a pay equity plan in place prior to the enactment of the legislation and is now seeking to have that agreement deemed by the CES to satisfy the employer's obligations under the law (discussed below). This exclusion is presently the subject of a constitutional challenge by a number of unions in Quebec's Superior Court.

Fourth, the period for making any pay adjustments is limited to four years for all employers. Under the Ontario law only public sector employers and those who chose not to adopt pay equity plans had fixed deadlines. Under Quebec law, all employers were required to complete all pay adjustments by November 2001, although the CES has the power to grant extensions of up to three years where an employer can prove financial difficulty.

Finally, and most controversially, Chapter 9 of the law provides that employers who had implemented or were in the process of implementing a "pay equity or relativity plan" at the time the legislation was enacted in November 1996 can apply to the CES to deem the pre-existing plan to satisfy the requirements of the *Loi Équité Salariale* if it meets five conditions set out in ss. 119 and 120. These conditions really comprise the heart of the statutory process. "Relativity plan" is not defined in the statute and there is no consensus as to its meaning. Presumably, it is a job evaluation plan that falls short of being a pay equity plan but still meets the conditions in ss. 119 and 120.

The process under Chapter 9 entirely excludes unions. Only employers may apply to the CES under Chapter 9; only employers may appeal a decision of the CES under Chapter 9 to the Labour Court. Thus, if the union believes an existing pay equity (or "relativity") plan is inadequate, it cannot voice its views to the CES or, if the CES has approved the plan, on appeal. There is a widespread perception that the CES has been "rubber-stamping" pre-existing plans that require much less in the way of equal pay for work of equal value than the *Loi Équité Salariale*. As mentioned, some unions have mounted a court challenge to Chapter 9. The CES's actions in approving so many existing plans have contributed to its poor reputation in feminist and union communities in Quebec.

Other noteworthy differences between the two statutes include the maintenance provisions, the administration provisions and the continued presence of s. 19 of the Quebec *Charter*. Quebec's legislation spells out what maintenance of pay equity requires in more detail than does the Ontario *Pay Equity Act*. It provides for maintenance of pay equity in light of such developments as the creation of new jobs or job classes, changes in existing jobs or job classes, the negotiation of changes to a collective agreement or a new collective agreement, and changes to the structure of the company or enterprise. It is too early to tell whether these provisions are adequate to maintain pay equity. One specific area of concern with respect to maintenance arises with respect to employers who have received Chapter 9 exemptions. Although these employers are expressly required to maintain pay equity or relativity in their enterprises, the maintenance provisions apply "as adapted" to them. Depending on the plan, this may be a very minimal guarantee of maintenance.

The administration of the statute is delegated to the CES, whose structure and role is similar to the Ontario Pay Equity Commission. The two main differences are that there is no specialized pay equity tribunal, so decisions by the CES or its staff are reviewed by the Labour Court, and that the CES has significantly fewer resources - a staff of about 20 and a budget of about $2M in 1997/98. This much lower level of administrative and financial support necessarily leads to a less effective law: there is less opportunity to raise awareness, to educate, to assist and to enforce. The relative lack of expertise in the CES staff, compared to the staff of the Ontario Pay Equity Commission, has also attracted criticism. The fewer and less helpful publications and lower level of employer assistance are deficiencies attributable to lack of expertise as well as to lack of funding. Unions have complained that the CES is biased, pointing to its failure to disclose to unions reports and correspondence between the CES and employers, and to the approval rate of 85% for Chapter 9 exemptions. They have also criticized the CES for a rigid and formalistic interpretation of the statute (Canadian Labour Congress, 2001). This contrasts with the Ontario Commission's focus on creative problem-solving as a means of honoring the spirit of the legislation.

Section 19 of the Quebec *Charter* has not been repealed. It applies workplaces with fewer than ten employees; however, s. 19 complaints must now be made to the CES rather than to the Quebec Human Rights Commission. It remains to be seen whether the CES will expressly target any outreach or education activities to employers governed by this provision, or whether they will continue to be effectively overlooked.

A comparison of the Quebec and Ontario pay equity laws would not be complete without mentioning some features of the Ontario law that were criticized but were not changed in the Quebec legislation. The failure to define certain key terms in the Ontario statute inexplicably carried over into the Quebec law: for example, "enterprise", "senior manager", and "relativity plan" are all not defined. Second, the Quebec law imposes no reporting requirement, not even of the amount of any pay adjustments or the percentage of female job classes for which an adjustment was required. As was well-known from the Ontario experience, this makes it impossible reliably to assess the impact of the law. Third, the obligation imposed on smaller employers to "achieve pay equity" by a certain date is just as undefined as it was in the Ontario statute. In light of the large number of women in both provinces who work for small firms and the documented experiences of Ontario's smaller employers -- poor understanding of what the law requires them to do, lack of infrastructure to support positive action, and very low compliance rates -- it is disappointing that Quebec legislators did not tailor their legislation to the needs of this group.

Given the strong similarity between the two regimes, it is hardly surprising that the impact of the law in Quebec appears, at this relatively early stage, to be similar to that in Ontario. Employers have been slow to implement the process of achieving pay equity, even though the implementation period ended last November. Compliance rates are low, and decrease with employer size. If anything, there appears to be an even greater reliance on paid outside consultants to handle the process rather than on direct dealings with unions (despite the institution of the Pay Equity Committee), and on recourse to litigation than there was in Ontario. The people with whom I spoke in Quebec expressed greater dissatisfaction with legislated pay equity in Quebec than those I talked with in Ontario. Employers object to what they consider the more cumbersome mechanism of the Pay Equity Committee; unions feel wrongly excluded from the Chapter 9 process; feminists decry the apparent disregard of statutory deadlines and worry that it will not address the needs of non-union women (See Bienvenu, 2001). All feel the CES is ineffective because it is understaffed and underfunded, and lacks expertise and initiative.

While the statutory deadline for achieving pay equity passed only a few months ago, and it will take some time to research the impact of the legislation (especially in the absence of a reporting requirement), the prognosis is certainly no better than Ontario. The two statutes differ in minor respects, but the major difference appears to me to lie in the administrative and financial resources that support them. In this respect, the Quebec regime is weaker than Ontario's. From what we now know about making a proactive law effective, adequate funding and an expert, neutral, and creative staff are essential to carry out the awareness-raising, educational, and problem-solving functions necessary to engaging people's good will and cooperation in a technical and complicated process. The CES appears inadequate to these tasks. The consequences of increased adversarial positioning and resistance to the statute do not bode well for accomplishing its legislative goal.

E. Comments on Canadian Pay Equity Legislation

Considering the preceding parts of this section, what can we learn from the Canadian experience with pay equity legislation to date?

Most importantly, I think that looking at how pay equity legislation has worked in Ontario, Quebec and federally deepens our understanding of the complexity of the problem it seeks to address. Sex-based wage disparities are multi-dimensional social phenomena. They are not amenable to a quick legislative "fix" in the way that formal barriers to women in the workforce (such as the former prohibition on married women in the federal public service) can be eliminated. Nor can sex-based wage disparities adequately be addressed by an approach that conceptualizes the problem as exceptional rather than ordinary, as do prohibitions on discrimination, including sex discrimination in employment. Human rights laws assume that most people do not discriminate, so that the problem that arises from those who do can be efficiently and effectively addressed by enacting a right and a mechanism under which people can complain about unusual transgressors. (And the adequacy of human rights laws is often criticized by those who believe that discrimination is more systemic than exceptional.)

A systemic problem is pervasive. Because it is systemic, the practices we seek to change are widespread and socially accepted. Addressing a systemic problem effectively requires a mechanism capable of changing people's long-standing and often unconscious assumptions about the relevance of gender to work. Comparing the proactive and complaints-based models of pay equity shows that a proactive model is superior to a complaints-based model in addressing the systemic dimensions of the problem in three main respects. First, it treats the problem as pervasive because it assumes that change in compensation practices will be the norm, rather than the exception. Second, it is less adversarial. Because everyone must take the positive steps outlined in the law, at least initially, the focus is more on assisting employers to comply with the law than building a case against the exceptional wrongdoer. Third, because the presumption in a proactive law is that everyone must do something, there is greater effort to spell out in detail in the law itself what they have to do. The more abstract articulation of a right suffices where it can be assumed that most people understand what the prohibited conduct is, and do not engage in it.

Given the nature of the problem, is legislating pay equity on a proactive model an effective way to address it? While it is more promising than a complaints-based model, in my view, the experiences with legislated pay equity in Ontario and Quebec do not provide strong support for this model.

Accepting that, even in theory, pay equity is only designed to address a small part of the gender wage gap and only some of its causes, the impact of the laws in Ontario and Quebec thus far has been disappointing. Job evaluation, the mechanism by which pay equity is to be accomplished in both statues, is not well-suited to the compensation practices of many employers. Pay equity only works well for larger employers who are familiar with job evaluation and its processes, particularly where there is a significant union presence and expertise in job evaluation. It works best in workplaces where most jobs have relatively stable content and structures, so that they lend themselves to detailed and accurate job descriptions. Finally, job evaluation works best for those employers who are genuinely willing to engage in the process and are committed to its goals. But this does not describe most private sector employers. The experience in Ontario (and early signs in Quebec) show that, while pay equity may be an effective way for some employers to uncover gender inequities in their compensation practices, it has not worked for many more. In my view, its limited effectiveness means that it is not an appropriate universal reform.

More fundamentally, I question whether pay equity legislation is an effective way to accomplish the kind of widespread social change necessary to make a real difference in the gender pay gap. Legislation has important symbolic force. It works well as a means of confirming social consensus about minimum standards of acceptable conduct as, for example, are contained in human rights and employment standards laws. The formal protections against sex discrimination in employment and the right to equal pay for equal work already exist and reflect widespread social consensus about the unacceptability of conduct that transgresses these rights. But there is no such social consensus about the aspects of sex-based wage disparities that are not addressed by these protections. While most would agree that reducing sex-based wage disparities is a good thing in general, and would also agree that some part of the existing gender pay gap is unfair because it is a product of discriminatory attitudes and assumptions about women and work, this is not a sufficient foundation for pay equity legislation. There is no social consensus about how to value work, or even what "value" means in this context. Legislation which requires employers to change what they pay their workers based on a very particular and controversial understanding of value is bound to generate the kinds of resistance and widespread non-compliance evident in both Ontario and Quebec.

This is not to say that nothing can be done about the gender pay gap, or even that all legislative approaches are ineffective. But I think it is important that any legislative or other initiative fit what we know about the problem and stimulate the kind of widespread attitudinal change necessary to address the systemic and long-standing social causes of sex-based wage disparities. Given our understanding of the problem, it is reasonable to consider that employers' compensation and employment practices contribute to the persistence of the gender pay gap, and to ask, or even require, them to do something about that. But there is insufficient evidence to support pay equity as the mandatory means by which most employers must review and adjust their compensation practices. It may be useful and effective for some of them; it should not be imposed on all. I suspect that various different measures to address the gender pay gap will be more or less effective for different employers, depending upon the size of their workforces and the nature of their business, among other things. I develop such an approach in the final section of my report.

However, regardless of what the appropriate substantive measures are, any initiative or initiatives to address the gender pay gap ought to include some of the proactive features evident in Ontario and Quebec's pay equity laws.

The infrastructure supporting the Ontario legislation, including the expertise, non-adversarial and problem-solving approaches taken by the Ontario Pay Equity Commission, and the funding dedicated both to it and to the independent pay equity advocacy clinic, compare favourably to the infrastructure underlying the *Loi Équité Salariale*. The CES is less-well-funded, less amenable to adapting the law to fit particular circumstances, and is perceived to be less neutral in its administration of the law. Thus far, Ontario's law appears to have been more successful in promoting positive relationships between unions and employers and a self-managed approach. While there has also been a lot of litigation under the Ontario statute, the opposition of Quebec unions to the CES was not something that occurred in Ontario. Moreover, the exclusion of unions from participation in the process for deemed acceptance of pay equity and relativity plans under Chapter 9 of the Quebec law signals less trust in a self-managed process.

In summary, based on what we have seen elsewhere in Canada, pay equity can be a useful strategy for some private sector employers to address some aspects of sex-based wage disparities, but legislated pay equity covering the whole of the private sector is of questionable utility. Even excluding very small employers, pay equity has not worked in practice for many employers. While more money could be put into more rigorous enforcement of such legislation, I am not convinced it would be well spent. I think the most effective and efficient aspects of the Ontario pay equity law lie in its educational and consensus-building techniques.

Canadian experience with pay equity legislation does not show that it has succeeded in reducing gender-based inequities in compensation across the private sector. However, it does suggest that any initiative that seeks to address the systemic problems underlying the gender pay gap should do the following:

- Raise awareness of the problem among employers and workers;
- Provide employers with tools, appropriate to their size and type of business, to understand and reduce aspects of their compensation practices that contribute to the gender pay gap;
- Direct employers to achieve the goals of the initiative with a minimum of government involvement, by supporting productive relationships with unions, sharing of information among similarly situated employers, and sectoral partnerships; and
- Resolve problems, at least initially, in a non-adversarial manner, ideally with access to expert, creative and neutral assistance.

IV. THE BRITISH COLUMBIA CONTEXT

In order to assess how any gender equity enhancing initiative will work in British Columbia's private sector, we need to know something about the economy of British Columbia, and the participation of women in it. This section presents an overview of this information, including a brief description of the economy and the distribution of women within it, measures of the gender pay gap in British Columbia, and a discussion of economic trends, particularly labour market trends, that will influence the gender pay gap (and any initiative to address it) in the future.

A. The Economic Picture

1. Women and the economy in British Columbia

British Columbia's economy is not static. It is evolving under the influence of the trends discussed below, both with respect to the composition of economic activity (which industries are dominant) and with respect to how workers produce and deliver goods and services. For example, industries such as forestry, mining, fishing and agriculture no longer dominate the economy as a whole; however, they are vital to the existence of the communities in which they continue to be the largest employers. British Columbia's economy is often described as changing from a resource and manufacturing economy to a service-based one. It is more accurate to describe it as a "cross-over" from a traditional industrial economy to a knowledge-based economy, in which resources, manufacturing, and an increasing number of service-based industries are important and interdependent.

Generally, over the past decade, British Columbia's economic growth has been slow. While it grew faster than the Canadian average from the mid-1980's to the early 1990's, British Columbia's economy has fallen below the average since 1994. Since 1996, the province's per-capita gross domestic product has also remained below the Canadian average. Significant downturns occurred in the goods-producing sector, particularly in resource industries, such as forestry, mining and fishing. These were partially offset by the steady growth in British Columbia's services sector. (See BC Stats, *Business Indicators*, November 2001; Vancouver Sun, February 18, 2002). The currently projected deficit of $4.4 billion for the coming year and of $1.8 billion for the following year will also affect British Columbia's economic well-being.

Against this larger economic picture, men's and women's labour force participation rates have remained fairly constant in the last decade, after 20 years of strong growth in women's participation rates. Overall, the participation rate for men is about 71%; that for women is 59%. The participation rate for women with pre-school age children is 69%, and it is 85% for women with a university degree. (BC Stats, *Labour Force Statistics* May 2000).

The following features of the British Columbia economy are relevant when considering initiatives to address the gender pay gap.

a) Sectoral employment patterns

Overall, in 2000, there were just under two million workers in British Columbia. Of these, 53% were men and 47% were women. (Unless otherwise indicated, all statistics from 2000 are taken from Statistics Canada *Labour Force Historical Review*, 2000). Dividing the economy into public and private sectors, the public sector employs 354,600 workers, or about 19% of workers; the private sector employs the remaining 81%. Female workers make up 58.8% of public sector employees, so they are over-represented in the public sector relative to their participation in employment in general.

Dividing the economy into goods-producing and services sectors, the services sector now employs a much larger number of workers than does the goods-producing sector. In 2000, it employed 78.7% of workers. Women are more likely to work in the services sector than men: 90% of female workers work in the services sector, as compared to 67% of male workers.

The predominant services sector industries are retail and wholesale trade, and health and social services. Together, they employ more people than the whole of the goods-producing sector.

Workers in the goods-producing sector, in which male workers predominate, earn more than workers in the services sector. The average hourly wage in the goods-producing sector is $19.25, compared with $17.15 in the services sector.

b) Employment by industry and region

i. By industry

Before looking at the distribution of female workers within British Columbia industries, it is useful to look at how industries themselves are described. There are many different industrial classification systems which group industries into different levels of specificity. It is important to know what level of industry is under discussion in order to appreciate its relation to other industries and to the economy in general.

Canada has recently adopted the North American Industrial Classification System (NAICS). NAICS recognizes five levels of industrial classification, four of which are potentially useful for the purposes of determining the scope of each industry study. They are sectors, subsectors, industry group, and industry. (The fifth level, "national industry" is too narrow to be useful here.)

There are presently 20 sectors, 99 subsectors, 321 industry groups and 734 industries in Canada, according to NAICS. For example, within the "agriculture, forestry, fishing and hunting" sector, one subsector is "animal production." Within that subsector, "poultry and egg production" is one industry group, and within that industry group, one industry is "turkey production." Within the "retail trade" sector, one subsector is "food and beverage"; within that subsector, one industry group is "grocery stores"; within that industry group, one industry is "convenience stores."

F2

The largest concentration of women workers among the various sectors occurs in the health care and social assistance industry group. It employs almost one of every five women in paid employment. The second largest employer of women at the sectoral level is the retail trade sector, which employs about 14% of women workers. Together with the educational services and accommodation and food services sectors, these four sectors employ 52% of women who work in British Columbia.

The distribution of women among industrial sectors can also be measured by looking at what percentage of employees in that sector are female. On this analysis, the largest concentration of female workers is in the health care and social assistance sector, where 82% of the workers are female. High concentrations of women are also found in education services (62% female) and the finance, insurance, real estate and leasing sector (61% female).

By contrast, women are underrepresented in goods-producing sectors: they make up only 10% of the workforce in the construction sector, 17% of primary industries (forestry, mining, oil & gas, and fishing) and 24% of workers in the manufacturing sector.

When looking at the distribution of female workers by industry, it is important not to assume that women are evenly distributed throughout a sector. For example, the retail trade sector is composed of 12 subsectors. These are divided into 27 industry groups which, in turn, are divided into about 61 industries. Women are not evenly distributed within any of these levels. Within the retail trade sector, more women may work for health and personal care stores and fewer women for motor vehicle and parts dealers. Within the furniture and home furnishings stores subsector, at the industry group level, more women may work for home furnishings stores than for furniture stores. Within the sporting goods, hobby and musical instruments stores industry group, at the industry level, more women may work in sewing, needlework and piece goods stores than in sporting goods stores.

ii. By region

Combining all jobs in British Columbia, over three out of four of them (77%) are located in either the Lower Mainland (60%) or on Vancouver Island (17%). The Thompson/Okanagan region employs 11% of British Columbia's workers, and 4% work in each of the Cariboo and the Kootenay regions. The remaining 4% are evenly divided between the North Coast/Nechako and the Northeast regions of the province. I was unable to determine whether female workers are disproportionately represented in any particular region of the province. However, the very high concentration of workers in the Lower Mainland may obscure important differences in the structure of employment in other regions, particularly if different industries predominate in different regions. A strategy to address the gender pay gap is likely to be based on the dynamics of the labour market in the Lower Mainland. But these dynamics may be very different in other regions of the province, and a strategy which cannot be tailored to fit those conditions will not address the gender pay gap effectively in those parts of the province (Hallin, 2001).

c) Employment by occupation

Dividing employment into occupational categories, in 1996, the largest single group of female workers in British Columbia were employed in sales and service occupations (35.5% of female workers), followed by business, finance and administrative occupations, which employed 29.5% women. Almost two-thirds of female workers in British Columbia work in one of these two occupational categories. (Statistics Canada, 1996 Census *Nation* tables).

These broad occupational categories can be broken down into more specific occupations. At this level, as well, women are concentrated in some occupations and are significantly underrepresented in others. Women comprise 83.3% of administrative and senior clerical workers, 74.1% of clerical personnel, and 69.2% of intermediate sales and service workers in the province. In marked contrast, women make up only 16.5% of semi-skilled manual workers and 4.4% of skilled crafts and trades workers (BC Stats, *Earnings and Employment Trends*, July 2000).

d) Employment by size of firm and self-employment

i. *Size of firm*

One of the most distinctive features of the British Columbia economy is its very large number of small businesses. Both in terms of the ratio of small businesses to larger businesses and its rate of growth, small business is a more significant factor in British Columbia than in the economies of the other provinces. Small businesses tend to have different employment structures than large businesses. Jobs in small businesses are often "flexible" in that job content and hours of work are unstable and will vary with the economic health of the enterprise. This means that small business are more likely to rely on contingent than on permanent full-time labour.

Of the 350,600 (public and private sector) businesses recorded in British Columbia in 2000, 97.9% of them were small businesses, employing under 50 employees or operated by a self-employed person with no employees. Small businesses are concentrated in the service sector (70% of small businesses). Including self-employed persons, small businesses employed 58% of workers in British Columbia's private sector in 2000. On average, small business employees earned $10,200 less annually than employees of large businesses ($26,517 compared to $36,700), and this earnings gap has been widening (it was only $8,900 in 1995) (BC Stats, *Small Business Profile*, 2001).

Unfortunately, statistics on the distribution of male and female workers among firms of different sizes do not differentiate between employers with under or over 50 employees. Still, it is clear that women are more likely to work for very small than for large firms. The following chart depicts gender distribution of employees by firm size.

Firm size	% of All Workers	% of Female Workers
Under 20 employees	39%	41%
20-99 employees	35%	35%
Over 100 employees	26%	24%

Within the services sector, where 90% of women work, small businesses predominate, and women are predominantly employed by them.

ii. Self-employment

Self-employment is a type of non-standard employment that is expanding rapidly in Canada and particularly in British Columbia. Over the past 20 years, the strongest area of employment growth in British Columbia by category of worker has been among the self-employed. For example, in 1997, self-employment accounted for all of the net employment gains in British Columbia.

Currently one of six Canadian workers is self-employed. One in every four workers in British Columbia's private sector is self-employed.

Self-employed workers can be divided into two groups: employers, and "own account" workers, who have no employees. In British Columbia, the largest proportion of self-employed businesses are run by own account workers (65%) and it is this type of self-employment that accounts for almost all of the growth in self-employment. Women make up 38% of all self-employed businesses. In 1997, women represented 25% of employers and 40% of own account workers. This represents a significant increase in the number of women self-employed workers over the past 25 years.

Earnings among self-employed workers are more polarized than among employees, and the gender earnings gap is also greater: Full-time female employees earn 72.9% of full-time male employees, but full-time female employers make only 60.2% of full-time male employers, and full-time female own account workers earn 67.3% of similar men. From a gender economic equity perspective, the economic disadvantage experienced by self-employed women is likely exacerbated by the unavailability to them of employment benefits that are restricted to employees, for example, maternity and parental benefits.

e) Hours of work

At 40 hours per week in 2000, male full-time workers continued to average more hours worked per week than their female counterparts, who averaged 35.7 hours per week. If hours worked by part-time workers are added in, this gender "time" gap becomes more pronounced: all male workers average 37.4 hours per week; all female workers average 29.9 hours.

Statistics Canada defines a part-time employee as someone who works fewer than 30 hours per week, adding together the hours worked in all jobs they held. On this definition, 31.4% of British Columbia women workers worked part-time in 2000, as compared with only 12.6% of male workers.

Part-time work has been increasing in British Columbia over the last 25 years, growing twice as fast as full-time employment, although full-time employment is still the norm, accounting for just under 80% of all employment in British Columbia. Moreover, part-time work is concentrated in the services sector rather than in the goods-producing sector: one-quarter of all employees in the services sector work part-time. Only one in ten goods-producing sector workers work part-time.

f) Union coverage

The impact of unions on employment can be measured by looking at the number of employees who are members of unions (membership) or by looking at the number of employees covered by collective agreements, whether or not they belong to a union (coverage). British Columbia's union coverage varies significantly with industry and sector.

Generally, in 2000, 35.8% of all British Columbia workers had union coverage, and 34.2% belonged to unions. Public sector employees were almost five times as likely to belong to a union than private sector employees. Generally 22.9% of private sector employees were covered by a collective agreement. Overall, union coverage for men was slightly more than for women (34.9% compared to 33.5%) and 10% more full-time workers belonged to unions than did part-time workers (36.2% and 26.2%).

Union density in British Columbia peaked in 1958, when 55.4% of workers belonged to a union. The steady decline since that time is attributable to the decline of resource-based industries which are highly unionized, and the significant increase in small services sector business, which are mostly non-union and are harder to organize.

Union coverage varies with firm size. Considering both public and private sectors, only 16.3% of workers in small businesses with under 20 employees, are covered by collective agreements. By contrast, in large firms (100-499 employees), there is 58.3% union coverage and in the largest firms (500+ employees) this percentage rises to 76.9%.

Union coverage varies significantly with worker age and with occupation/industry. For example, employees aged 45-54 had higher than average union coverage rates (48.6%), whereas those aged 15-24 had much lower rates (14.3%). Higher union coverage occurs in education services (72.9%), and in transportation and warehousing (54.8%). Much lower union coverage occurs in the professional, scientific and technical sector, and in accommodation and food (13.6%).

The gender wage gap among full-time union workers is smaller than for non-union workers or all workers. Union women earn 89% of union men. There is no gender wage gap that operates to the detriment of union women who work part-time: part-time unionized female workers earn 100.2% of their male counterparts (Akyeampong, 2001).

2. *The gender pay gap in British Columbia*

In general, the discussion of the various measurements of the gender pay gap earlier in this report (see I.B.) and of their frailties is also true of measurements of the gender pay gap in British Columbia. However, examining what we know about the gender pay gap in British Columbia is an important step in designing a private sector initiative that will be effective to address it.

Over time, there have been some changes in the gender pay gap in British Columbia. Women's earnings increased faster than men's between 1986 and 1995. Women also increased their participation in higher-paying occupations and in post-secondary institutions over this period. Some of the persistent earnings gap is attributable to the continued high numbers of women who work part-time. However, the gender wage gap has not changed much over the last few years, even when only full-time full year workers are considered, suggesting that systemic barriers continue. In 1997, the wage gap actually widened by almost 1%. Despite some gains in earnings, women continue to represent a much greater percentage of those who earn under $25,000 per year (59.7%, compared to 42.1% of men) than of those who earn over $50,000 (7.9% compared to 25.3% of men). The problem does not appear to be solving itself (BC Stats, *Earnings and Employment Trends*, March 2000).

General measures of the gender pay gap are less helpful when considering how to address it because the gap varies so significantly between various British Columbia industries. Regardless of gender, earnings are higher in the goods-producing sector than in the services sector, whether one looks at only full-time earnings or all earnings. In 2000, for example, services sector weekly wages for all workers were 79% of goods-producing sector wages. Earnings also vary significantly within the sectors: within the goods producing sector, the primary sector (forestry, fishing and mining) pays the highest weekly wages of $945.25. By contrast, agriculture pays $444.25/week and construction pays $735.53 weekly. In the services sector, earnings are highest in public administration ($813.52/week), and lowest in the accommodation, food and beverage sector ($340.65/week).

Many of the services sector industries in which women predominate fall below the overall industrial weekly earnings average of $637.07.

Looking at the gender wage gap for all workers, relatively small gaps are found in heath care and social assistance (8%), the management of companies and enterprises sector (9%), and in agriculture (13%). Much larger gender wage gaps are found in retail and wholesale trade (25%), finance, insurance, real estate and leasing (26%), and "other" services (29%). [For more detailed information on the gender wage gap by industry, see Appendix E.]

Again, the gender pay gap can also vary within these sectors, by industry group or by industry. For example, pay rates may generally be lower in retail trade than in wholesale trade and the gender pay gap may be different between these two industry groups.

Examining the British Columbia statistics on earnings of part-time rather than full-time or all workers, two distinctive facts emerge. First, there is clear and consistent evidence of a "part-time discount." That is, the average hourly wage rates for part-time workers are lower than the average hourly rates for full-time workers within the same industry. This appears to be true for all British Columbia industries. Second, in most (but not all) industries, female part-time workers on average earn higher hourly wages than male part-time workers in that industry. Both of these features of part-time work may be explained, in whole or in part, by differences in the nature of work performed by part-time workers as compared to full-time workers, and female as compared to male part-time workers. More study is required to determine whether these "part-time" wage gaps need redressing.

Both the measures of the wage gap and the reasons for it may also differ significantly between occupations. While wage rates vary between occupations, a gender wage gap is also evident within occupations, whether the occupation is male-predominant, female-predominant or gender-neutral. As is the case with industrial classification, occupational classification systems group occupations at various levels of specificity. At the most general level, for example, the gender wage gap among all workers in sales and service occupations is 20%. (It is 22% if only full-time workers are considered.) By contrast, the wage gap for all workers in business, finance and administrative occupations is 15%. Within sales and service occupations, the highly male-predominant (82.6% male) protective services occupation has a gender wage gap of 13% among all workers, while the virtually exclusively female (99.2% female) childcare and home support occupation has a gender wage gap of 14%.

Finally, the gender wage gap by age and by educational attainment in British Columbia follows the pattern for Canada generally. Generally, wage gaps are smaller between younger men and women than they are between older men and women, and smaller between more highly educated men and women than between men and women with less formal education.

These features of the gender pay gap in British Columbia together with the economic trends discussed in the next part significantly affect how any equity-enhancing initiative, including private sector pay equity, will work in British Columbia.

3. *Economic trends*

A number of large-scale economic trends should be kept in mind when considering what kinds of initiatives to take in reducing the gender pay gap in British Columbia's private sector, both because of their direct impact, and because of their effect on labour market trends. Some of these large-scale trends are as follows:

- Globalization refers to the growth of free trade and related deregulation, and the increased international competition and international economic interdependence that results from it. This has led to the elimination of jobs in female-dominated industries in both the public and private sector.
- Economic restructuring refers to fundamental changes in the structure of production and employment:
  - Changes in the structure of production include the decline in manufacturing and growth of the services sector, and technological innovation, which has changed the basis of production across many industries and sectors. Such changes create demands for workers with different kinds of skills.
  - Changes in the structure and conditions of employment are the second component of economic restructuring. There are shifts in the composition of occupations across all sectors, such as the increase in professional, technical, clerical and specialized occupations. The conditions of employment are also changing, as reliance on part-time and contract workers increases and unionization decreases.

Influenced by the larger trends set out above, the key labour market trend is the marked move away from the traditional permanent, full-time job with relatively fixed job content, and the growth of the contingent labour force. This fundamental shift in the structure of work will have important implications for any strategy to reduce the gender pay gap. It is influenced by a number of factors (see generally, Townson, 1997; Hughes, 1999; Bakker, 1991; Spalter-Roth and Hartmann, 1998; Chicha, 1999):

- Growth in contingent work, that is temporary, part-time, contract or "on-call" jobs. These jobs come with little security, few employment benefits, and lower pay than the traditional permanent full-time job. In particular, the measurable "discount" on part-time wages (how much less a part-time worker earns per hour than a full-time worker doing the same work) across occupations and industries will affect the gender pay gap. According to many researchers, contingent work has grown more in response to employers' desires for flexibility and cost savings than in response to workers' desires for alternate job structures. (Spalter-Roth and Hartmann, 1998).

- Corporate downsizing is influenced by international competition and technological change. As companies reduce their workforces, jobs disappear and job content and performance expectations increase, leading to increased skill and education requirements for workers. Smaller firms are less amenable to some economic equity-enhancing initiatives, such as pay equity.

- Privatization and contracting out are two trends in the reduction of the public sector as an employer. Privatization of crown corporations and contracting out programs and tasks that were performed by public sector employees may disproportionately affect women. Women are highly concentrated in public sector industries such as utilities, which are often earmarked for privatization, and in occupations such clerical and cleaning operations, data-processing, and child care, which are increasingly contracted out. The shift of these industries and occupations from the public to the private sector will affect the gender pay gap.

- Self-employment is increasing, along with the proportion of women who are self-employed. Many of the economic equity-enhancing strategies presently used in Canada have no application to the self-employed. As self-employment becomes an increasingly important feature of women's labour market participation, strategies that include the female self-employed will need to be developed.

- Income polarization refers to the trend in wage distribution patterns whereby the differences between workers' wages is increasing. Analysts speak of the increase in the division of jobs into "good" jobs (permanent, full-time, high-skill, with benefits) and "bad" jobs (part-time, temporary, low-skill and few benefits), and the disproportionate representation of women in the latter. As jobs and the wages they pay become polarized, they become less comparable for pay equity purposes.

Along with the trends described above, it is important to note demographic trends when projecting the effectiveness of existing economic equity-enhancing initiatives into the future, or designing new ones. The aging of our population, the low birth rate, immigration patterns, and changes in educational attainments will all influence how well an equity-enhancing initiative works.

B. How Existing Canadian Approaches Might Work in British Columbia

Having set out a brief overview of the economic picture in British Columbia, including some features of its gender pay gaps, and in light of the existing domestic initiatives that I described earlier (see II.B), we can now consider how existing Canadian approaches to private sector pay equity might work in British Columbia. There are three models to choose from: the complaints-based legislative model, the proactive legislative model, and taking no action to implement pay equity in the private sector.

1. The complaints-based model

The complaints-based model could be easily adapted to British Columbia. The *Human Rights Code* could be amended to include a pay equity type of right (the equivalent of s. 11 of *the Canadian Human Rights Act*), which would then be administered and enforced within the existing human rights structure. In its submission, the BC Human Rights Coalition advocated such an approach, as did the Canadian Federation of Students. The briefly-enacted *Human Rights Code Amendment Act*, which was repealed soon after the change of government in British Columbia, also adopted this model.

However, there is no reason to believe that the complaints-based model would work any better in British Columbia than it has federally, and the consensus is that it as been both ineffective and inefficient in that jurisdiction. Although it might be possible to draft such legislation with more clarity and precision than the vaguely-worded s. 11, there is little reason to think that there would be fewer adversarial proceedings, since the model is premised on an adversarial approach to dispute resolution.

There is a lower unionization rate in British Columbia's private sector than in the federal private sector and employers tend to be much smaller here, so it may be that fewer parties can afford to engage in numerous preliminary and interlocutory appeals. However, the smaller union presence likely means that the legislation will be even less effective, since the experience in other Canadian jurisdictions shows unorganized workers are less likely to initiate pay equity (or even equal pay for equal work) complaints. An active publicity campaign and funding a dedicated pay equity advocacy clinic might help, but the process will remain as cumbersome and unwieldy as it is federally.

Further, the much greater number of employers in British Columbia's private sector as compared to the federal private sector means that the potential number of complaints is significantly larger. In order to investigate and determine how to dispose of pay equity complaints, the BC Human Rights Commission, which is already struggling to keep up with its present workload, would require a significant infusion of resources. The Canadian Human Rights Commission's experience with pay equity investigations shows that determining whether a complaint ought to be referred to a tribunal for hearing requires a lot of time and money. If a greater proportion of complainants in British Columbia are unrepresented by unions and/or are relatively unfamiliar with the mechanics of pay equity analysis, the work required of the BC Human Rights Commission during the investigation process will be that much greater.

Most importantly, the individual rights-based and adversarial approach inherent in a complaints-based model is conceptually inappropriate to address more than a narrow slice of the systemic and multi-faceted phenomenon of the gender pay gap. Changing unquestioned assumptions about gender and work and a whole range of employment practices that affect women's economic equality in employment in diverse ways is not something that can be attained by legislating a right to pay equity and enforcing it through a complaints-based adversarial approach to dispute resolution.

That said, there is an aspect of the gender pay gap that can effectively be addressed on this approach. As I have suggested, there is reason to believe that individuals in British Columbia do not all enjoy the right to equal pay for equal work that presently is contained in s. 12 of the *BC Human Rights Code*. Enforcing that individual right more effectively is something that could be significantly improved within a complaints-based legislative model. That model is well-suited to sending a strong message about the unacceptable conduct of those who transgress the right to equal pay for equal work. Enforcing this right more effectively could help to alleviate the economic inequality of some of British Columbia's most economically vulnerable workers.

2. *The proactive model*

I have argued above that the proactive model of private sector pay equity legislation is, on the whole, not an effective or efficient way of reducing the gender pay gap or of increasing women's equality of economic opportunity in employment. I think that my examination of the experience with such legislation in Ontario and thus far in Quebec suggests that the imposition of job-evaluation based pay equity across the whole of the private sector reduces the complexity of the gender wage gap to an abstract and technical exercise in evaluation. To the extent that pay equity is a helpful way to examine or address inequities in compensation, it works well only for larger employers familiar with job evaluation, particularly if there is a significant union presence and all parties are committed to that process.

In comparison with both Ontario and Quebec, British Columbia's economy is more decentralized. It has a much larger number of very small employers, less unionization in the private sector services industries in which most women work, and comparably less familiarity with pay equity and job evaluation among the majority of its employers and workers than likely existed in Ontario and Quebec at the time their pay equity laws were enacted. It is difficult to compare employer commitment to pay equity in Ontario and Quebec before their laws were enacted with the present climate in British Columbia. However, on the basis of what I have heard, private sector employer resistance to legislated pay equity in this province is certainly no less than it was in Ontario or Quebec. Thus, the same consequences, in terms of litigation, delayed compliance with or avoidance of the legislation, and adjustment of data to minimize the cost of any wage increases can all be expected to occur here.

Unlike Ontario at the time it enacted its pay equity legislation, British Columbia's economy is not growing. Fiscal constraints make it unlikely that even if the Ontario model were adopted, it would receive the level of funding and staffing essential to making it effective, an inadequacy that is presently apparent in Quebec.

Current trends in British Columbia's economy suggest that pay equity will become even less well-suited to its private sector in the future. For example, trends towards greater self-employment, contingent and contract work, and the increasing rate of female participation in these forms of employment, as well as declining unionization rates and numbers of permanent, full-time jobs suggest that pay equity will have less relevance in British Columbia's private sector in the future.

While I believe that the proactive model as a whole is not currently appropriate for British Columbia's private sector, some of its features could work well here. Ontario's experience confirms that awareness-raising and educational functions are critical to the success of any equity-enhancing initiative; they would certainly be crucial for any such initiative in British Columbia. A problem-solving approach which seeks to help employers achieve desired changes is also much more effective than an adversarial model and should be the basis of any equity-enhancing initiative tailored to British Columbia's private sector. And, while it was certainly flawed, there is no question that Ontario's decision to enact legislation was a strong incentive for the employers to whom it applied to take some steps to review and alter their compensation practices.

3. Taking no action in the private sector

A number of Canadian jurisdictions do not have private sector pay equity legislation, or any private sector initiatives to address the problem of women's unequal economic opportunities in employment, other than the various measures I discussed in section II.B. For the reasons given below, I believe that British Columbia should not follow in their footsteps.

One of the arguments for taking no positive action to address the gender wage gap has been that the problem reflects a temporary distortion of the market which will soon correct itself. Although it is true that the gender pay gap has narrowed significantly over time, it is also true that the rate of reduction has slowed, and that, as recently as 1997, the gap even increased. Moreover, although women have made improvements relative to men with respect to some of the known causes of the gap (educational attainment, job tenure, and so on), these account for less than one half of the wage gap. Some of the most important factors in the gap, occupational and industrial gender segregation, and the gendered division of responsibility for domestic and child related unpaid work, do not appear to be changing very much.

Finally, those who argue that the market will correct itself assume conditions of equal power, information, and mobility among workers and employers that simply do not exist. As Browne and Giampetro argue, the absence of precisely these conditions is what makes the persistence of the gender pay possible, so it is no answer to say that the market can take care of the gender pay gap by assuming those problems away:

> The assertion that most labour markets are competitive with numerous powerless employers and highly mobile job applicants who can reject the bids of discriminating prospective buyers of their services and move to other job opportunities is dubious. Actual labour markets are often characterized by asymmetrical power, information, and mobility. The greater the discrepancy in the extent of these variables held by the employers to the detriment of employees, the weaker the case for market determination of wages. A labour market in which one set of participants can exploit the market on the basis of its superior position is exactly the kind of labour market where comparable worth deserves serious consideration. In such a context, discrimination can flourish. (Browne and Giampetro, 1987: 476-77)

Contrary to the hope that the gender pay gap will disappear on its own, I think a number of the economic trends that I set out above show that it will certainly persist and may even increase in British Columbia's private sector. They also suggest that pay equity, as we have seen it elsewhere in Canada, will be increasingly ineffective to address the problem. The nature and structure of work is changing away from a model that is amenable to a job evaluation analysis. Wage gaps between workers are increasing. The public sector, traditionally an important source of higher-paying jobs for women, is being reduced in size, and some of the social programs that directly or indirectly supported women's access to employment are being reduced or eliminated. The health care and social services sectors, traditionally huge employers of women, are acknowledged to be in crisis across the country. In such circumstances, the need for positive measures to insure women's equality of economic opportunity in employment is compelling.

The vast majority of the submissions I received, including all of the submissions from business organizations, supported positive government action to address the gender pay gap. While pay equity legislation was controversial, the need for action and the principle of equality were not. In light of this, and of Canada's international obligations, taking no action is not a defensible option. In the final section of this report, I set out the thinking that I believe should guide British Columbia in assisting women to achieve equal economic opportunity in employment in the private sector, and my recommendations for reform.

V. A NEW APPROACH TO ADDRESSING SEX-BASED WAGE DISPARITIES

A. Why We Need a New Approach

From all that I have read and heard during the course of this study, despite the many disagreements about aspects of pay equity as a theory, as a strategy and as a political initiative, there is widespread consensus among those knowledgeable in the area about the following:

- pervasive (or systemic) employer practices continue to bar women from economic equality in employment;
- the persistence of economic inequality in employment is detrimental to women and to society as a whole; and
- pay equity legislation has not significantly improved economic equality for women in employment.

People disagree about how big a part of the gender pay gap ought to be corrected, but they mostly agree that some part of the gap ought to be corrected. People disagree about how to determine pay equity's effectiveness, but despite some acknowledged "success stories," they mostly agree that legislated pay equity has not generally significantly alleviated the gender pay gap.

There are disagreements about what to do with these facts. Some say that we should stop trying to address the problem through legislated pay equity, because such laws are worse than doing nothing. Some employers point to the large cost to them of implementing pay equity in light of the very small consequent pay adjustments as a reason to abandon legislated pay equity. Some feminists point to the danger that legislated pay equity will cause politicians and the public to feel that the problem has been solved according to the terms of an ineffective law, so it becomes even harder to lobby for more effective reforms.

Others say that pay equity laws, despite their drawbacks, are better than nothing. Some employers consider pay equity to be a relatively minor modification of their existing compensation practices which do not entail substantial wage adjustments, and give them certainty that they have done their part in addressing the gender pay gap. Some feminists argue that pay equity laws can be improved, that any women who benefit are well-served by the law, and that doing something is better than doing nothing.

There is some merit in all of these arguments; however, I believe that legislated pay equity, as we have seen it in Canada, is not an effective or efficient response to sex-based wage disparities in the private sector generally. I believe that the gender-based economic inequalities underlying the gender pay gap are real and pressing problems. And I believe British Columbia can do better in addressing them than legislating private sector pay equity.

Many of pay equity's advocates, as well as its critics, also agree that we need to come up with a better approach to dealing with the gender pay gap. Most of the pay equity supporters with whom I spoke agreed that pay equity does not work very well for many women and that it is time to think along different lines.

What do British Columbians think? Based on the submissions I received, there is almost universal support for affirmative measures to address some aspects of the gender pay gap, and acknowledgement that the gap (or some part of it) is a pressing problem. Almost all of those who believed that action should be taken to reduce the gender pay gap also believed that no single initiative can adequately address the problem. A variety of measures are needed. Among the submissions there was no consensus that pay equity, particularly legislated pay equity based on job evaluation, is a universally useful approach.

Many of the labour organizations from whom I heard endorsed pay equity in the context of collective bargaining. These organizations took the view that pay equity based on job evaluation can effectively address part of the gender pay gap when pay equity plans are negotiated by employers and bargaining agents within a set of externally imposed guiding principles and time lines that "put pay equity on the table" and require that some action be taken on it. With such external constraints, most of the labour organizations felt that achieving pay equity through collective bargaining was a useful approach. Several acknowledged the ineffectiveness of pay equity for smaller employers, or cautioned that it should be modified for smaller and/or non-union employers.

Most business organizations acknowledged that pay equity based on job evaluation has been used effectively in some instances by larger employers; however, they criticized many aspects of legislated pay equity. All, including the BC Business Council and the Coalition of BC Businesses, endorsed the principle of equal pay for work of equal value, but opposed legislated pay equity as a means of achieving this goal. Only the Association of Canadian Financial Corporations endorsed the proactive legislative model of pay equity; it supported the Ontario legislation and was very critical of the Quebec law.

The submissions I received from individuals and other groups contained diverse views about the efficacy of legislated pay equity. Some criticized pay equity as an unprincipled interference with the market. Others considered that, while pay equity assists some, other measures are more immediately beneficial, especially to lower income women. Still others emphasized that the best way to achieve lasting improvements in equality of economic opportunity for women in employment is to stimulate attitudinal change. One individual described an incident at her former workplace that illustrates the pervasiveness of gender assumptions:

> [A]n employer of mine once assumed, quite stereotypically that men clustered together were discussing work, while women in a cluster were gossiping. He ordered the women back to their desks while leaving the men alone. In reality, the men were talking about baseball while the women were analyzing a serious problem with the office computers.

The authors of the submissions and many of those I contacted during my research thought about how to address the gender pay gap in ways other than legislated pay equity. Three general themes emerge from their views about how to more effectively and efficiently address sex-based wage disparities in the private sector.

First, there are a number of ways to strengthen some of the existing domestic non-pay equity initiatives that ameliorate the gender wage gap (discussed earlier in section III.B). These include:

- Setting the minimum wage at a level that ensures someone earning minimum wage has an adequate standard of living, as women predominate among minimum wage earners;

- Making it easier to unionize traditionally female-dominated workplaces and industries, as gender pay gaps are smaller among unionized workers than non-unionized workers;

- Increasing access to post-secondary education and other training for women, particularly in traditionally male fields;

- Providing more child care spaces in British Columbia communities and more subsidized child care, as many women reduce their workforce participation because of child care responsibilities;

- Recognizing foreign credentials and/or facilitating an expedited means of gaining Canadian equivalencies in skilled occupations, as this is prevents many immigrant and refugee women from achieving economic equality in employment;

- Enforcing employment standards laws and prohibitions on discrimination in employment and, in particular, the guarantee of equal pay for equal work, more effectively, as transgressions of these minimum standards persist and adversely affect economically vulnerable workers;

- Enhancing work entry and similar social assistance programs that aim to facilitate entry into the labour force particularly for women with small children who have been on social assistance; and

- Legislatively extending employment equity programs to the private sector, so as to ensure that recruitment, hiring, promotions, training and mentoring processes do not exclude women, and that women have equal economic opportunities at all levels within the workplace.

Second, looking more specifically at what employers can do to address the gender pay gap in their workplaces, suggested steps include:

- Directly analyzing wage data within the workplace (for example, compare the gender distribution between the top and bottom 20% of workers, and within broad occupational categories), adjusting for accepted variables such as educational credentials and job experience and tenure, and requiring employers to provide a gender-neutral justification for any remaining gender wage gaps;

- Reviewing and restructuring salary scales so as to ensure comparable base rates, similar increment periods and adjustments as between male and female-dominated jobs or occupations;

- Calculating the gender discount (the percent by which wages decrease as the predominance of women in an occupation increases) for occupations within the workplace and increasing the wages of workers in female-dominated jobs by this percentage;

- Bargaining pay equity plans within organized workplaces within a fixed framework of guidelines and timelines; such a framework could be legislatively imposed, or determined on a sectoral basis through an employer/union panel or other industry-level processes;
- Imposing a tax penalty on employers who cannot prove they have pay equity policies;
- Setting up a government-funded equal pay unit to educate and assist employers in reviewing their compensation practices and ensuring they are equitable;
- Publishing information about appropriate pay scales for various occupations and encouraging or providing incentives for employers to adopt these rates;
- Conducting self-audits of compensation (salary scales, increment periods, bonus systems and so on) and employment practices (recruitment, hiring, promotion, training, and so on) according to government-published guides, and developing a plan to correct any problems over a period of time;
- Using existing trade or sectoral organizations to develop equitable compensation guidelines for members;
- Requiring or encouraging employers to provide on-site English language training; and
- Requiring or encourage employers to implement measures such as job-sharing, flex-time, tele-commuting and compressed work weeks to accommodate workers' family responsibilities.

So many of these suggested measures, both the general ones and those targeted more specifically at employers, are likely only to be useful for some, but not all, employers that, in thinking about them, I began to question the premise of universality (that all private sectors employers should do the same thing(s) to address sex-based wage disparities). Perhaps a more effective way to address the gender pay gap in the private sector is not by treating all private sector employers in the same way, but by explicitly acknowledging their differences.

Third, there are some general features about British Columbia's private sector that emerge from the submissions and from the literature, and must be taken into account when considering how to address sex-based wage disparities effectively in this sector. They are as follows:

- The private sector looks to the public sector for leadership and support in this area; private sector employer organizations are willing to shoulder their share of responsibility for addressing the problem if the public sector is seen to be doing its share.
- There is a compelling need for more information about the contours of sex-based wage disparities and their causes in particular industries, among different groups of workers and within employers of different sizes. Employers (and sometimes unions and workers) need to see that the problem exists in their immediate context before they can genuinely start to

address it. Providing meaningful education and appropriate tools for change are essential to improving women's equality of economic opportunity in the long term.

- Both purely voluntary and purely mandatory measures have significant drawbacks. An exclusively voluntary approach will be ineffective for all but a few employers. Enacting legislation creates the need for enforcement mechanisms, and the more the legislation requires employers to do, the more costly and cumbersome the enforcement procedures will become.

Mindful of all of these considerations, in the next part of this section, I outline a new approach to addressing sex-based wage disparities in British Columbia's private sector.

B. Recommendation for Reform

I recommend that the government take the steps outlined below to address persistent sex-based wage disparities in British Columbia's private sector. In my view, these steps have more potential to redress the problems underlying sex-based wage disparities in the private sector than does legislated pay equity. Three features of my recommendation are worth highlighting before describing it in detail.

First, I propose immediate and effective enforcement of equal pay for equal work. While there is broad social consensus that this is a basic right, there is reason to believe that it has not been adequately realized, particularly for some of British Columbia's most economically vulnerable workers. Stronger enforcement measures are necessary to ensure that all workers in British Columbia, regardless of gender, are remunerated equally for performing similar work. Immediate and visible enforcement also signals the government's commitment to this most basic guarantee of gender-based economic equity, and can raise awareness about sex-based wage disparities. This measure lays the groundwork for further reform.

Second, my recommendation is incremental: starting with effective enforcement of the existing right to equal pay for equal work, it builds awareness through study, education, industry participation and voluntary measures over a period of time. In this approach, legislation creating new obligations and entitlements is a last resort, not an immediate remedy. While my recommended approach appears slower than a purely legislative response, I do not believe it is necessarily so. Experience in other jurisdictions demonstrates that, in terms of its impact on the gender pay gap, legislated pay equity is not a speedy reform. The simple fact is that sex-based wage disparities are a complex and longstanding social problem. Complex problems require complex solutions, and they will take time. Further, neither purely voluntary approaches nor the blunt instrument of legislation have succeeded on their own in significantly improving women's access to equality of economic opportunity. My recommendation combines them into a deliberately graduated approach. If there is a political commitment to address the problem expeditiously, and it extends to allocating the necessary funding, I believe this model can be more effective than legislated pay equity in improving women's equality of economic opportunity in employment. Moreover, because of its strong educational focus, I think this model is more likely to stimulate the kind of social and cultural change that is beyond the ability of any government to legislate into existence, but which is essential to lasting change.

Third, my recommendation does not contemplate a universal reform. It proposes adoption of a set of equity-enhancing initiatives (which may include pay equity) tailored by and for the diverse industries of this province to address the unique pattern of sex-based wage disparities that occurs within each of them. Unlike pay equity legislation, my proposal does not assume that any one initiative will work or have similar effect in every private sector industry. My proposal can be tailored to different sized employers and to workers within female, male and gender-neutral occupations and firms. Unlike pay equity, it assumes that the barriers to equal economic opportunity for women differ from industry to industry. The economic gender inequities which may exist in the logging industry are likely to be very different from gender inequities one may find in the tourism industry. In order to address these differences, my proposal focuses on learning what the barriers to equality are at an industrial level, and then making available to each industry the tools to address them. It solicits the participation of those within each industry to design and implement equity-enhancing practices sensitive to the contours of that industry and responsive to the demonstrated problems that contribute to gender-based economic inequities within it.

1. Recommendation: Achieving equal pay for equal work

a) Rationale

There is widespread social consensus within British Columbia and throughout Canada that equal pay for equal work is a fundamental entitlement. Canada's commitments in international law oblige it to ensure equal pay for equal work for its citizens. These international commitments are expressed in the equal pay for equal work rights found in every Canadian jurisdiction's domestic laws. Among the submissions I received, no one took issue with this right. Many submissions, including those by employers, expressly affirmed their support for equal pay for equal work and endorsed more effective enforcement of this right.

Currently, British Columbia's equal pay provision is found in s. 12 of the *Human Rights Code*. In some other provinces, protection for equal pay is found in employment standards legislation. As part of the human rights regime, equal pay is enforced through a complaints-based process. When individuals allege that their equal pay rights have been violated, the BC Human Rights Commission decides whether to accept the complaint. The Commission may investigate the complaint and will either settle it, dismiss it or refer it to adjudication before the Human Rights Tribunal. The process is passive on the part of the state in that it is only activated by an individual's decision to come forward and complain. While there is provision in the *Human Rights Code* for the Commission to take a more proactive approach by laying a complaint itself or by conducting education and awareness-raising activities, it has never done so with respect to s. 12. As far as I have been able to discover, there has never been any concerted outreach effort to inform workers of the right to equal pay for equal work, to proactively inquire into the nature and extent of s. 12 violations, or to positively enforce this right in a systemic and comprehensive way.

For the reasons set out in my earlier discussion of s. 12 (see II.B.1), I am convinced that unequal pay for equal work remains a problem in British Columbia, just as it persists in Ontario. Employers in British Columbia may not be ensuring that they pay equally for equal work because they simply adhere to longstanding informal or formal pay practices and have not had the occasion or the stimulus to critically examine them. The mere presence of s. 12 of the *Human Rights Code* and the very passive enforcement mechanism associated with it have not had much of an impact. A vigorous publicity campaign and proactive enforcement regime for equal pay for equal work provides a much stronger incentive to re-examine existing compensation practices. It is well-established that female low wage earners and immigrant workers are poorly served by a passive, complaint-based enforcement method that relies on individuals to know what their entitlements are, how to enforce them, and to be sufficiently confident to do so.

Affirmative enforcement of equal pay for equal work deepens social consensus about this entitlement and forms a strong foundation for increasing public awareness about gender-based economic equality. It is an ideal vehicle to begin to build a positive vision of equality of economic opportunity for men and women. Devoting the resources necessary to support a public awareness and education campaign around equal pay for equal work signals government's commitment to this most basic aspect of gender-based economic equality, not merely at the symbolic level of passing legislation, but on the ground, bringing the legislated right into force by making it truly effective. Thus, this recommended course of action serves three important purposes: it makes a fundamental right more accessible to those who need it most, it creates a real incentive for employers to start looking critically at their pay practices, and it raises public awareness of sex-based wage disparities, laying the groundwork for further reform.

b) Implementation

i. Human Rights Code or Employment Standards Act?

There are two options for strengthening enforcement of equal pay for equal work. Either the current s. 12 of the *Human Rights Code* can be retained without legislative change, or the equal pay for equal work provision could be moved into the *Employment Standards Act* to be enforced within that administrative regime. As I have noted, equal pay for equal work provisions sometimes appear in one or the other statute. I see no conceptual difficulty in either alternative: equal pay can fairly be seen as a human right, as one aspect of protecting against sex discrimination in employment, or it may just as plausibly be construed as a basic employment right, consistent with the mission of employment standards to protect the rights of vulnerable workers. On balance, I think that protecting equal pay for equal work under the *Employment Standards Act* is the better choice.

Currently, there is some uncertainty about the relationship of s. 13 (prohibiting discrimination in employment) and s. 12 of the *Human Rights Code*. Some complaints claim violations of both sections based on the same alleged facts. However, there are also important differences between the two provisions: s. 12 is restricted to inequality in pay between men and women, a complaint may be launched as a court action as well as under the *Human Rights Code*, and there is an explicit restriction on damages not found in any other *Human Rights Code* provision. There is some law suggesting that the general human rights protection against discrimination in employment includes some concept of pay equity. Removing s. 12 from the *Human Rights Code* and enacting a right to equal pay for equal work in the *Employment Standards Act* resolves the uncertain relationship between ss. 12 and 13 of the *Human Rights Code*.

Moving equal pay for equal work into the *Employment Standards Act* affords an opportunity to clarify the scope of the right to equal pay for equal work. Some clarification is afforded by the move itself. The *Employment Standards Act* contains general provisions for time limits on filing a complaint (six months after termination of employment), on recovery (24 months before the date of the complaint or termination), and on how to make a complaint. Those parts of s. 12 providing that an action may be commenced in court and creating a one year cap on recovery would no longer be necessary. Further, the *Employment Standards*

Act's provisions governing investigation of complaints and obliging employers to disclose relevant information are more helpful than the equivalent provisions of the *Human Rights Code*. "Employer" and "wages" are defined in the *Employment Standards Act*, unlike the *Human Rights Code*. As the failure to define "employer" has led to litigation, both in the equal pay for equal work context and under pay equity legislation, and the definition of wages can also be controversial, it will be important to ensure that these general definitions are appropriate to determination of equal pay for equal work cases.

The most important way in which the right to equal pay for equal work can be legislatively clarified is in the description of the right itself. Section 12 creates a right to equal pay for "similar or substantially similar work" which is to be determined by reference to "the concept of skill effort and responsibility" subject to "seniority systems, merit systems, and systems that measure earnings by quantity or quality of production." Further, s. 12(3) provides that other factors may "reasonably" justify a difference in pay. This unwieldy description of the right was clarified to some extent by the Human Rights Tribunal in *Vancouver (City) v. Reid (No. 5)*, one of two cases the Tribunal has decided under s. 12:

> A finding that the positions are not substantially similar on one of the criteria will not necessarily be fatal to the complaint. However, as discussed previously, this is not "equal value" legislation. The purpose of the *Code* is not to require equal pay for dissimilar jobs that may be of equal value. In my opinion, where jobs are not identical, the focus of the enquiry must be first on the core duties of the job: are they substantially similar on the three criteria? If they are not, the work cannot be substantially similar. If the core duties are substantially similar, the focus shifts to the dissimilar job duties: are they incidental and insubstantial? If so, they should not affect the outcome. If the differences are substantial, are they sufficient to justify a wage disparity? [at para. 128]

Despite this helpful interpretation, I think the description of the right is awkward and could be improved. Similar work is performed where the core duties actually performed are similar in nature, judged by the type of work it is. The skill, effort and responsibility that goes into doing the work should be roughly commensurate, but need not be identical. The focus should be on the work actually performed on a regular basis. Formal job descriptions, classifications and titles should not carry more weight than what the person actually does. Where the core duties are similar, the onus should shift to the employer to justify any differences in pay. Any justification for a difference in pay must be gender-neutral, and must be proportionate to the differences in the work performed. Where differences in pay result from differences in characteristics of the worker, such as seniority, merit or productivity, these must be part of a general system for recognizing such differences.

Moving equal pay for equal work into the *Employment Standards Act* will not unduly restrict the remedies for a breach of this right. In some other jurisdictions, only remedies to the individual complainant may be awarded. However, in British Columbia, the Employment Standards Branch or Employment Standards Tribunal may make systemic orders in addition to providing the complainant with a remedy. For example, an employer could be required to review its pay practices more generally in order to ensure that they conform with the right to equal pay and/or to report to the Branch on the results of its investigation. Failure to do so or inadequacies in the report might result in further action. This more proactive remedial element means that an individual complaint can stimulate change throughout the enterprise.

A further reason for preferring the *Employment Standards Act* to the *Human Rights Code* arises from current differences between these two legislative regimes, as well as changes that may occur in the future.

Many features of the current regime of proactive employment standards administration and enforcement lend themselves to what I would like to see happen with respect to equal pay for equal work. The Employment Standards Branch has a greater regional presence than the BC Human Rights Commission, and therefore a greater capacity to provide speedy and informal responses to queries and complaints. Affirmative assistance to workers and employers in complying with a right to equal pay fits well within the Branch's existing outreach program. Guidelines and other material can be written and distributed by the Employment Standards Branch explaining what conduct is prohibited. These can be included in the *Employment Standards Manual* and made separately available in print and on-line. The Employment Standards Branch has telephone information lines that could easily include information about equal pay. Some of the suggested revisions to the employment standards process, including mandatory settlement conferences, strict timelines for disclosure, and early hearing dates would fit well with my recommendation for enhanced enforcement of equal pay for equal work.

Some of the changes now being discussed with respect to the human rights system, along the lines of a "direct access" model that would see complaints made directly to the Human Rights Tribunal and elimination of the BC Human Rights Commission's investigative and gate-keeping functions, do not fit well with what I propose to do about equal pay for equal work. If s. 12 were to remain in the *Human Rights Code*, it might be necessary to create an "equal pay enforcement project" to provide the necessary outreach, publicity, investigation and settlement services.

Finally, the legislative change that would be required to move equal pay for equal work into the *Employment Standards Act* also provides a natural moment for launching the publicity and proactive enforcement campaign that lies at the core of this recommendation and lays the groundwork for the further reforms I recommend. The determination of equal pay violations ought to be a relatively simple and straightforward process that does not require a sophisticated human rights adjudication. Emphasizing that it is a basic worker's entitlement may assist in achieving this right without creating the more adversarial atmosphere that has plagued both human rights and pay equity enforcement.

ii. What should be changed?

Regardless of its statutory home, the major thrust of this recommendation is to enforce equal pay for equal work much more effectively. I have summarized below the non-legislative and the legislative changes that I consider important if this right is to be effectively enforced and so serve the purposes I have outlined in the preceding section. The non-legislative changes can be implemented whether or not the present s. 12 is retained, although I believe that employment standards likely provides a better administrative setting than human rights. The legislative changes could be made to either statute.

➢ Non-legislative measures:

- Design and launch a province-wide outreach campaign to inform workers and employers of the right to equal pay for equal work and of how to make a complaint; ensure coverage of non-urban areas and all industries;

- Work with immigrant, refugee, and educational organizations to raise awareness among their constituents, and make information about the right available in different languages;

- Work with employer associations and chambers of commerce to encourage self-policing, emphasizing the goal of a level-playing field with respect to basic rights;

- Create a staffed telephone hot-line with extended hours to field inquiries, provide information and receive informal complaints (or advertise existing Employment Standards Branch telephone lines);

- Allocate staff to promptly respond to informal complaints, make inquiries, provide assistance to individuals making complaints;

- Create administrative structures to facilitate expedited settlement and dispute resolution within the chosen administrative system; and

- Publicize outcomes of cases to further educate employers and workers about equal pay for equal work and stimulate change in employment practices without the need for dispute resolution.

➢ Legislative changes:

- Determine whether to amend s. 12 or repeal it and enact an equal pay right in the *Employment Standards Act*;

- If s. 12 remains in the *Human Rights Code*, remove the option of commencing a court action instead of making a complaint and remove the present cap on recovery that applies only to s. 12;

- Define "employer" and "wages" if s. 12 remains in the *Human Rights Code*; otherwise clarify the definitions of these terms in the *Employment Standards Act*, if necessary; and

- Clarify the scope of the right, as suggested above: defining "similar work" in terms of the core duties and type of work actually performed, so that job descriptions, classifications and titles are relevant but not determinative; and shifting the onus to the employer to justify any differences in pay on the basis that such differences are gender-neutral and proportionate to the differences in the work performed.

c) Next steps:

As I write this report, it is not yet clear what changes may be made to human rights and employment standards or when they might occur. Ideally, implementation of my recommendation with respect to enhanced enforcement of equal pay for equal work would occur in conjunction with these changes. The resources required to implement my recommendation should be determined and allocated as part of the general reviews and reforms of employment standards or human rights.

2. *Recommendation: Achieving equal economic opportunity by industry*

a) Rationale

While we can calculate various measures of sex-based wage disparities in British Columbia in general, we lack adequate information about the nature and causes of the gender wage gap in specific occupations and industries in British Columbia. Existing information about gender pay gaps, occupational and industrial segregation, and aggregate numbers of women in British Columbia's industries is not precise enough to meaningfully inform policy decisions and the development of effective equity-enhancing initiatives.

The evidence from other Canadian jurisdictions demonstrates the limited efficacy of universal models which attempt to address the gender pay gap at a general level. In particular, efforts to address occupational segregation and undervaluation of women's work through general pay equity legislation have been relatively expensive, and have tended to produce significant change only in large, unionized or public sector employers. Many employers, particularly those with fewer than 50 employees, have resisted complying with such legislation because they perceive it is unfair, arbitrary and too costly.

As I have argued, the present composition of the British Columbia economy is ill-suited to Ontario-style pay equity legislation, as it is decentralized, with a very high percentage of small employers. Further, there is little understanding, both among employers and in the general public, about the meaning of "pay equity". There is a consensus that the gender of the person performing work ought not to affect remuneration, a sense that everyone, regardless of their gender, ought to be "paid fairly" for the work they do, and that men and women should generally have equal opportunity for economic attainment. However, there is little understanding or agreement about what might be necessary to achieve these objectives, or what role employers ought to have in that process.

Under these conditions, an effective approach is one that will first deliver concrete and useful information about the nature of sex-based wage disparities in British Columbia and what might be effective responses to them. I do not believe that such information can be found by looking at the private sector as a whole. Evidence from other jurisdictions shows that sex-based wage disparities and the most useful ways to combat them vary widely between industries. We know that women are not evenly distributed among British Columbia industries. The nature of occupational segregation also varies across and within industries. Sometimes men and women work in different occupations. Sometimes women work at lower levels and men at higher levels within occupations. Sometimes employers hire only men or only women to work in their firms. These are significant differences and they require different equity-enhancing responses.

Support for an industry-specific reform comes from sectoral studies done by the Ontario Pay Equity Commission on how the *Pay Equity Act* might address the lack of male comparator job classes in female-predominant industries. Although the context of the studies was how to adapt an existing pay equity law to address a lack of male comparators, these studies contain a lot of useful information about how, even in industries dominated by women, gender-based economic inequalities persist. These are evident both in differences between patterns of male and female participation within the industry and in barriers to opportunities for advancement for women.

Patterns of female participation vary significantly between and within industries, sub-industries and establishments. An industry may appear female-predominant, for example, tourism, but gender predominance may be very different within its sub-industries (for example, in travel agencies, attractions, accommodation). Sub-industries may also differ significantly with respect to sex-based wage disparities and the structure of work. Reading the Ontario sectoral studies reveals that the barriers to equal economic opportunity and the most effective responses to them vary between sub-industries and industries. For example, in some industries/sub-industries, employment equity initiatives which increase access to better-paying jobs appeared to the researchers to be more effective than pay equity. Other studies pointed to the structure of the work itself as a problem, such as hours of work and job-related travel requirements, and suggested that changing them would increase women's opportunities for economic equality. Further, some studies highlighted other types of initiatives, such as setting and enforcing industrial standards, licensing, cracking down on unscrupulous employers, increasing access to child care, and enforcing minimum wage laws, as effective and important initiatives in increasing economic equality for women. Taken together, the Ontario studies suggest that an effective set of initiatives to address sex-based wage disparities should be industry-specific.

Further support for an industry-specific approach can be found in the experience of New South Wales, Australia. This jurisdiction differs from British Columbia in that there are centrally determined minimum wage rates for the various occupations. However, despite this highly centralized structure, a 1999 study found that women still earned only 84% of men's earnings. The government of New South Wales recognized pay equity as an important issue and adopted a multi-pronged strategy to address it. The information-gathering prong of the strategy included a pay equity task force, a number of commissioned case studies, and a formal Commission of Inquiry. The Commission concluded that there were significant differences in the dimensions and the causes of pay inequities within different industries, and it declined to recommend a universal pay equity law for this reason.

As in Ontario, the New South Wales studies found that the kinds of barriers that create sex-based wage disparities and the kinds of initiatives most needed to reduce them vary between (and within) industries. The New South Wales Inquiry found that actual assessment of an industry, its history, and its compensation practices is necessary to uncover gender-based inequalities; global assumptions about the problems and their remedies are insufficient. Cultural, economic, social and institutional factors influence wage-setting. While some general causes that contribute to pay inequality between men and women can be identified, their relative importance varies between industries. For example, while the gender effect (the downward effect on pay as the percentage of women in an occupation increases) exists across all industries, it differs significantly by industry and by occupation. In some of the lowest-paying industries, English language training, access to information about other work and training opportunities, as well as to information about basic worker's rights, would enhance women's economic equality far more than a universal pay equity law.

These examples demonstrate that the barriers to equal economic opportunity for women are complex and varied. Preconceived notions of the best means to reduce sex-based wage disparities, particularly when enshrined in general legislation, will not be equally suitable to all industries or sub-industries. The experiences of Ontario and New South Wales demonstrate the potential of an industry-specific approach to generate innovative and concrete initiatives that are responsive to the particular circumstances of different industries. It also underscores the importance of industry participation: industry participants know their industry and, if positively engaged, are best placed to identify creative and workable ideas for change.

An industry-specific approach also fits well with British Columbia's present public sector pay equity policy which recognizes that there are relevant differences within different parts of the public sector, and contains guidelines that are tailored to such differences.

The approach I propose is premised on a concrete and careful analysis of sex-based wage disparities and their causes on an industry-specific basis. Careful study of an industry, with the participation of those directly involved in it, will generate a useful picture of the dynamics of the industry and the organization of work in it, both historically and presently. Against such a background, sex-based wage disparities for occupations within that industry and among different types of employers can be measured, and informed ideas about their causes developed. From this picture, a set of effective mechanisms to address the disparities in that industry can be identified. Such mechanisms can be designed to take into account what employers in that particular context can be reasonably expected to do, and can be aimed at addressing the most significant barriers to equal economic recognition and opportunity for female workers.

Compliance that is initially based on positive incentives rather than on legislated requirements assumes that, by engaging them in the process and providing a compelling factual foundation, employers in the industry under study will recognize their mutual interest in moving towards equal economic opportunity and recognition for all their workers. The approach treats employers as partners in addressing a multi-faceted structural problem rather than assuming at the outset that they are wrong-doers who must be forced to mend their ways. While private sector employers are well-placed to address part of the problem, sex-based wage disparities and their underlying causes have public as well as private dimensions. This approach requires government, as the representative of the public sphere, to take some responsibility for accomplishing change by creating and funding effective positive incentives to assist employers to implement equity-enhancing employment practices.

This industry-specific approach can give the many non-unionized women in the private sector a more effective voice, since their participation can be actively solicited during the course of the industry study. Unions with a presence in the industry would be full participants in the process. Their collective voice and experiences will be invaluable in developing innovative, industry-appropriate strategies. A staggered approach means that limited public resources can be directed first at "benchmark" industries where sex-based wage disparities are most evident and where the information gained through an industry case study might usefully be applied to other industries. Legislation is a last resort, to be implemented only if the industry is not willing to participate or its voluntary measures are demonstrably inadequate. Any such legislation, whether industry-specific or more general, will benefit from the information gained through the industry case studies and subsequent voluntary implementation efforts.

However, before this approach can be implemented, consideration must be given to those parts of the public sector not covered by the PSEC Pay Equity Policy (for example, municipalities). As discussed earlier in this report, the private sector looks to the public sector to demonstrate leadership in equitable employment practices. The potential effectiveness of the industry-specific approach that I recommend will be significantly impaired if private sector employers feel they are being asked to do more than the public sector in tackling the problem of sex-based wage disparities. It will therefore be important for government to consider what action to take with respect to these parts of the public sector. One option would be to include them in the industry-specific approach.

b) Implementation

Implementation of this recommendation proceeds in four steps: preliminary research, industry studies, voluntary compliance period, review and possible legislative action. Overall responsibility for coordinating and administrating this initiative should rest with a ministry that has the financial resources and staff expertise adequate to the task. This ministry would consult with other ministries as necessary on specific industries.

i. Preliminary research

The purpose of this stage is to identify and prioritize industries for industry case studies. Factors to consider include:

- size and definition of the industry, including sub-industries or other groupings within it;
- the predominance of women and men in the industry;
- what sex-based wage disparities exist within the industry;
- whether the industry is related to other industries so that information gained about it can become a benchmark for other industry studies;
- what kinds of information about the industry presently exist;
- whether industry is projected to grow (rather than decline).

It will be useful to select a cross-section of industries for the initial case studies, representing the services and goods-producing sectors, female and male-predominant workforces, and urban and rural settings. It will also be useful, for the initial round of studies, to select industries with a greater degree of employer organization (particularly if they are genuinely willing to participate in the study process), more visible industries, and industries in which unions are committed to gender equality issues. Other British Columbia industries should be grouped and scheduled for subsequent study.

The research can be undertaken by staff within the ministry responsible for this initiative or it may be contracted out. Industries may be approached to canvas their interest in participation. In New South Wales a public process was used, whereby 20 industries were nominated for study.) The number of industries selected for the initial case studies can be adjusted according to available funding, but at least four or five industry studies should be conducted to provide a sense of the range of issues.

ii. Industry studies

The purpose of this stage of the process is to produce and publicize information about the organization of work in the industry from a gender perspective and, from that information, develop recommendations for equity-enhancing initiatives appropriate to the circumstances of the industry.

The studies will be conducted by independent researchers with expertise in the particular industry. Each study will be based on standard research methodologies (questionnaires, interviews; secondary research), and will require substantial industry participation, resulting in a published report on the industry.

In an initial section, each study will describe the scope of the industry, including the following factors: the size and number of employers; the number of workers; the predominance of women; the financial picture (including any public funding in the industry); gender distribution among typical occupations; salaries and working conditions; gender discounts (correlation between reduced wages and increase in female presence in an occupation); the pattern of full-time versus part-time workers, as well as standard and other workers (casual, seasonal, temporary) and their pattern of gender distribution; training and education requirements; remuneration, including standard benefits and bonuses; degree of unionization; and future trends for the industry.

The second section of the study will evaluate the industry against three general criteria. I have set out below the three basic questions the study should answer, along with some specific issues and approaches that may be useful in responding to them.

- Is there demonstrable gender neutrality in compensation practices?

Regardless of how wages are set, can the employer show that gender-based assumptions do not figure in compensation-setting practices? For example, more objective compensation methods and/or the presence of a bargaining agent may safeguard against gender inequity. This assumption should be tested. It may be useful to review the range of wage variation for standard occupations within the industry. Reference may be made to typical male-female occupational equivalencies within the industry that have been found in other jurisdictions. (The occupational equivalencies developed by Human Resources Development Canada may be a useful resource.) Researchers may select certain jobs for an "eyeball analysis" of stereotypical gender assumptions with job content. Lists of typically overlooked skills associated with female jobs maybe helpful (see, for example, Steinberg and Haignere, 1987). It will be important to compare entry-level pay, base pay rates, and increment levels and periods for female-dominated, male-dominated and gender-neutral jobs and examine the justifications for any differences. Is there equitable/gender-neutral access to benefits? Another useful technique is to look at the highest and lowest earners in typical establishments (perhaps the top and bottom 20%). Are men and women equally represented in both groups? If not, what are the reasons for the difference? Is there a discount for part-time or casual work? If so, can it be justified in relation to job content rather than assumptions about characteristics of part-time workers? Job evaluation methodologies may be used where they are acceptable to a particular industry or employers.

- Is there demonstrable support for equitable access to opportunities to maximize individual economic attainment?

What is the distribution of women within the industry and within typical industry employers? Are women equitably represented (measured as a function of the eligible pool) at all levels in the industry? Are recruitment, promotion and lateral transfer practices gender-equitable (including positive measures to support women moving into non-traditional occupations and to ensure men have equitable access to "pink-collar" occupations)? Are formal and/or informal mentoring equitably available? Are there sufficient and equitable employer-supported opportunities for relevant skill acquisition to improve worker productivity and meet the future needs of industry? (This can range from English language training through recognition of foreign credentials to opportunities for acquisition of highly specialized skills.)

- Is there a demonstrably supportive environment for women in the industry?

  These are affirmative measures, the need for which stems from historical socio-cultural patterns of gender discrimination. Their purpose is to ensure that, to an extent appropriate to their size and resources, employers do their part to support the continued and expanding presence of women in the workforce. They fall into two sub-categories: measures to ensure a gender equitable workplace environment (for example, anti-sexual harassment policies; informal monitoring of workplace climate; realistic opportunities to voice complaints) and measures to accommodate women's greater family responsibilities (for example, flex time, tele-commuting, enhanced maternity/family leave and benefits, accommodation of breast-feeding, assistance in locating/funding child care). This aspect of the study should assess how employers in the industry ensure that women are truly welcome in the industry by looking at these kinds of resources. What constitutes adequate support for women in an industry will differ depending on gender predominance in the industry, its firms, and in typical occupations.

Based on the background and evaluation sections, the final section of the study will contain a set of recommended equity-enhancing initiatives appropriate for the industry and responsive to the most serious barriers to equal economic opportunity for women within it. The recommendations may be tailored to employers of different sizes and may include staggered implementation of various initiatives. This section of the study will also specify a time frame for voluntary adoption by the industry of an agreed set of equity-enhancing employment practices based on the recommendations (no more than 1 year from date of publication of study) and a date for review of the industry's voluntary compliance efforts (3-4 years after adoption of the recommendations). Subsequent industry studies of other British Columbia industries should be undertaken after completion of the initial studies, building on the information and techniques acquired from the initial studies. The goal should be to recommend equity-enhancing initiatives for all British Columbia industries within a reasonable period of time.

iii. Voluntary compliance period

Upon publication of an industry study, the industry that is the subject of the study must agree to implement a set of equity-enhancing employment practices in light of the recommendations in the case study. Resources should be made available to allow for the authors of the case study to present their recommendations to industry groups and to facilitate consensual adoption of a set of equity-enhancing practices. These equity-enhancing practices may be a modified version of the study's recommendations. Employers in the industry should be aware that failing to agree to implement a set of equity-enhancing initiatives voluntarily within the specified time will trigger the imposition of legislative requirements based on the recommendations in the study. A review of whether the industry has adopted a set of equity-enhancing initiatives and the adequacy of the initiatives adopted (so as to ensure a genuine rather than a superficial response) may be made by the ministry in charge of this initiative or by the ministry responsible for the particular industry.

Upon industry adoption of the equity-enhancing practices, employers within the industry will be encouraged to implement them in their own establishments. Positive incentives (which may vary by industry) may include: tax incentives based on outlays incurred to implement these practices (most likely, a nonrefundable tax credit); contract compliance measures whereby public sector contracts will be given in preference (or only) to employers who can show they have implemented the practices; direct subsidies (whereby firms apply for public funding to implement specific equity-enhancing practices); and public recognition of outstanding efforts through industry associations in conjunction with the appropriate government ministry. Incentives should be tailored to the type and cost of equity-enhancing initiatives adopted.

iv. Review and possible legislative action

At the time specified for review, the ministry in charge of this initiative will commission or conduct a review of the industry to assess whether the industry's equity-enhancing practices have been substantially implemented by employers within that industry, and to evaluate the extent of progress towards equal economic opportunity. A formal Commission of Inquiry, as was done in New South Wales, would be an excellent way to conduct a credible and impartial review. Based on that evaluation, government may decide to take no further action, to set a period for a subsequent review, to recommend revisions to the industry's equity-enhancing practices and engage in consensual discussions with the industry to that end, or to draft legislation to impose mandatory equity-enhancing practices on the industry.

c) Next steps

Because this is a conceptually innovative proposal, it cannot be implemented as easily as my recommendation for proactive enforcement of equal pay for equal work. My research and analysis has led me to conclude that this is a promising way to meaningfully address the problem of persistent sex-based wage disparities in the private sector. While the direction for reform is clear, more needs to be done before it can be implemented. I lack the expertise in labour economics and related fields necessary to define appropriately the breadth of the industries subject to case studies - whether, to use the North American Industrial Classification System's lexicon, they are sub-sectors, industry groups, or industries themselves. While I have made suggestions about what the case studies ought to contain based on the precedents I have seen, others will be more knowledgeable on this score. As well, more work is needed to flesh out a suitable package of incentives to assist industry employers in agreeing to adopt and implement the set of equity-enhancing initiatives found appropriate for their industry.

The success of the proposal will turn first on government's commitment to fund high-quality industry studies and on industry's commitment to participate in them. If this work is done, it is essential that industry employers take the steps towards equal economic opportunity identified in the set of equity-enhancing initiatives accepted by the industry. Positive incentives, particularly tax incentives and contract compliance or preference, are essential if the voluntary compliance process is to work. While it should not overshadow the others, one other incentive that should not be overlooked is the possibility of legislative imposition of the equity-enhancing practices emerging from the case studies. For the possibility of legislative action to work as an incentive, government must be very clear about its commitment to enact such a law if adequate voluntary compliance is not achieved. If industries are not willing to comply with the industry studies, legislative action may be needed earlier. I have suggested that such legislation would be industry-specific. Depending on the results of the case studies, it may be feasible to enact a general law, with industry-specific regulations. Again, this is a matter for others to consider.

CONCLUSION

Sex-based wage disparities are a persistent and pressing problem in British Columbia, as they are in Canada and around the world. The history of sex discrimination and the persistence of attitudes and practices that operate to the economic detriment of women in employment impose on society the responsibility to try to reduce the gender pay gap. That responsibility is shared by governments, employers and workers, all of whom have some responsibility for the problem and an important role in redressing it. The fact that we cannot isolate or quantify the part of the gender pay gap that arises, directly or indirectly, from discriminatory attitudes and practices does not relieve any of us of the challenge of tackling it.

The problem can and must be addressed on many fronts, and there is an important network of domestic and international initiatives that aim to do so. This report has primarily been concerned with examining the problem of persistent sex-based wage disparities in British Columbia's private sector, and with considering the efficacy of private sector pay equity legislation to address the gender pay gap in this sector. My examination of private sector pay equity legislation elsewhere in Canada has led me to conclude that this is not an effective response to the problem. However, it does point to a different and, I believe, a more promising plan of action.

The approach that I recommend requires, as a first step, vigorous and more effective enforcement of the right to equal pay for equal work. While this right only addresses a very small part of the gender pay gap, viewed from the perspective of those workers who do not receive equal pay for equal work, that part of the gap looms large. If we, as a society, agree that this is a fundamental entitlement of all British Columbia workers – and I found all of the submissions, discussions and readings unanimous on this point – then we cannot be complacent that merely by enacting this right we have truly made it available to those who need it most. Taking steps to ensure all British Columbians are paid equally for equal work prioritizes the most egregious of the causes of the gender pay gap, and prepares the ground to further reform.

Even if equal pay for equal work is achieved for all workers in British Columbia, the troubling portion of the gender pay gap will persist. Deeply rooted gender-based assumptions, attitudes and practices will still operate to the detriment of women at work and prevent attainment of the goal of equal economic opportunity for British Columbian women. To do their part in achieving this goal, employers in British Columbia's private sector must examine and alter their compensation and employment practices so as to ensure that gender does not inappropriately influence those practices either directly or indirectly. The second part of my recommendation, achieving equal economic opportunity by industry, sets out a framework, within which employers can examine their practices and make necessary changes in ways that make sense for the kinds of business they do. An industry-specific approach does not pre-judge what changes are needed most, nor does it assume that the same methods of review or reform will work for all employers or their employees.

If British Columbia's private sector employers come together as industries and face the challenge of addressing the gender pay gap together, they will be able to state with confidence that they are no longer a part of the problem. The private sector, however, is not solely responsible for the gender pay gap and its persistence in our society. Sex-based wage disparities stem from deeply rooted social and cultural beliefs and practices. In the end, it is up to society, and to all of us as its members, to take up the challenge of revisiting our own assumptions and beliefs about the relationship between gender and work.

APPENDIX A: REQUEST FOR SUBMISSIONS

TASK FORCE ON PAY EQUITY
Nitya Iyer, Chair

2200 – 1055 W. Hastings Street
Vancouver, B.C. V6E 2E9
Ph:(604) 669-6047 Fax: (604) 669-5101
payequity@heenan.ca

REQUEST FOR SUBMISSIONS

The Pay Equity Task Force was created to independently review pay equity in BC. The Attorney General has asked me to advise the government on "the extent to which current Canadian models of pay equity legislation are an effective and efficient response to sex-based wage disparity in the private sector."

As part of my review, I would very much like to hear your views on private sector pay equity and I invite you to send me your thoughts in writing. You may find the following suggested issues and questions helpful. Please feel free to address all or any of them, and to comment on any other aspects of pay equity you consider important.

Submissions should be sent to:

Nitya Iyer, Chair
Pay Equity Task Force
2200-1055 West Hastings St.
Vancouver, BC V6E 2E9
Tel: (604) 669-6047 Fax: (604) 669-5101
payequity@heenan.ca

Electronic submissions should be in MS Word for Windows or in PDF format.

The deadline for submissions is November 30, 2001.

PAY EQUITY ISSUES AND QUESTIONS

The following questions explore various issues relating to pay equity legislation. They are intended to help you in making your submission. Feel free to respond to as many or as few as you like, or to disregard them.

The first question examines whether and what kind of problem exists, and asks whether pay equity legislation should be considered at all. The remaining questions explore key aspects of whether and how pay equity legislation works. These questions therefore assume that some kind of pay equity legislation is worth considering and examine how well or poorly it is likely to work in practice.

1. What problem does pay equity legislation aim to address?

It is generally accepted that there is a sex-based wage gap in Canada. According to Statistics Canada, women's annual full-time earnings amount to 73% of men's annual full-time earnings. Various reasons have been proposed for this gender wage gap. They include differences in: the number of hours worked, skill level required to do the job, seniority, unionization, years of experience, and so on. Studies of the workforce have also shown that some occupations or industries are predominantly occupied by female workers while others are dominated by male workers. This occupational segregation, along with an under-valuation of "female" jobs, has also been proposed as a reason for the gender wage gap.

In commenting on this issue, you may wish to consider the following questions:

- Should the government be concerned about the gender wage gap?
- What do you consider to be the most important reasons for the gender wage gap?
- How have the actions of government, employers, unions, individual workers and/or society in general contributed to the gender wage gap?
- Should we be concerned that women and men tend to work in different types of occupations? If so, why is this a problem?
- Some people have said that female-dominated occupations are undervalued and underpaid. What evidence is there to support or contradict this view?
- If the gender wage gap is a problem, is it that jobs considered to be "women's work" are underpaid, or that women as a group are paid less than men?
- Which, if any, reasons for the gender wage gap flow from unfair treatment of women? Can any of these sources of unfair treatment be effectively addressed through legislation?
- If there is a problem that should be addressed through legislation, is pay equity legislation the best option? What other kinds of legislation would help?
- What do you believe are the main advantages and/or disadvantages of pay equity legislation?

2. How do we value jobs?

Pay equity legislation works by comparing jobs where women are the majority of workers with jobs where men are the majority of workers. The jobs compared may be very different – for example, secretary and carpenter – so each job must be valued in a neutral way in order to compare them. Usually, the value of each job is determined by assessing how much skill, effort, and responsibility is required to do it, and under what working conditions it is performed. The value of a job is the total of the value of each of these four factors. When a "female" job is compared to a "male" job of the same value, the wages for those jobs are also compared to see if the female job is underpaid. Determining the value of different jobs in an accurate and unbiased way is essential for pay equity legislation to work.

In commenting on this issue, you may wish to consider the following questions:

- What factors affect how wages are set in the private sector?
- What number of workers of one sex should make a job "male" or "female" for the purposes of pay equity legislation? Should we look only at who currently does the job, or also at past history?
- Should there be any requirement that jobs be similar in order to be compared? If not, what is a fair way to compare dissimilar jobs?
- Who should assess what the value of a job is? How can this be done most objectively and accurately?
- Are skill, effort, responsibility and working conditions the only factors that should be considered when assessing a job's value? If not, what other factors should be considered?
- Should the value of a job for the purposes of pay equity legislation be affected at all by labour market conditions, such as an over supply or under supply of persons qualified to do that job? If so, how should such market factors be taken into account?
- Is the benefit of a job to a worker only the wages he or she receives from it? Are there other benefits of jobs that should be included when jobs are compared? If so, how should their value be determined?

3. How should pay equity legislation work?

Various kinds of pay equity legislation and policies have been implemented in Canada. Some apply only to employers of a certain type or size. Some pay equity processes are complaint-driven. That is, they require an employer to show that its female-dominated jobs are not underpaid compared to male jobs of the same value only if someone makes a complaint. Others require all employers to examine their workforce and show that female-dominated jobs are not underpaid or create a plan to increase the wages of underpaid female jobs. Some people have said that only jobs for the same employer in the same location, or in the same bargaining unit, should be compared. Others say that job comparisons should be made more broadly.

Who pays the cost of implementing the legislative scheme (for example, all taxpayers, or the parties to complaints) and who can be penalized under it are also important issues.

In commenting on this issue, you may wish to consider the following questions:

- Should all employers have to assess and compare the value of male and female jobs or need they only do so if a complaint is made about that employer? Why?
- Should job comparisons be made within a workplace, within a bargaining unit, within an employer, within an industry, or more broadly?
- Should pay equity legislation apply to all or only some private sector employers? Why? If only some, which private sector employers? Does the size of the employer matter?
- Are some models for pay equity legislation better than others? Why?
- What are the financial and non-financial costs of pay equity legislation to government, employers, and individual workers?
- Should the costs of administering and enforcing pay equity legislation be met through tax dollars, a levy on employers, fines, and/or in other ways?
- What consequences should be imposed on employers for not complying with pay equity legislation? Who should monitor compliance?

4. How should pay equity legislation affect collective bargaining?

In a unionized workplace, a union acts as a bargaining agent for some or all of the workers. The union and the employer negotiate all of the terms and conditions of work for those workers, including their wages. Pay equity legislation can affect how wages are determined; it can also require that wages be changed. The role of unions in relation to pay equity legislation raises a number of issues.

In commenting on this issue, you may wish to consider the following questions:

- Should employers and unions be able to bargain about pay equity at all?
- Should pay equity legislation impose constraints on how union and employers bargain? Should employers and unions be required to bargain to achieve pay equity?
- Should pay equity comparisons apply to jobs in different bargaining units or represented by different unions?
- Should unions be able to make pay equity complaints on behalf of their members?
- If a collective agreement includes provisions for pay equity, should that satisfy any obligation under pay equity legislation or should the agreement be reviewed under the legislation?
- If pay equity legislation imposes liability and penalties for not complying with it, should these apply to employers, to unions, or to both?

5. How can we know if pay equity legislation is effective and efficient?

People have disagreed over whether pay equity legislation is effective, how effective it is or could be, and how to measure whether it is effective. In order to assess whether pay equity legislation is effective, you need to be clear about what the purpose of the law is. In order to assess whether the legislation is efficient, you need to calculate what it costs and consider whether its effect is worth that cost.

In commenting on this issue, you may wish to consider the following questions:

- What does it mean to say pay equity legislation is or is not effective? How should its effectiveness be measured?
- What does it mean to say pay equity legislation is or is not efficient? How should its efficiency be measured?
- How do factors such as the type of industry, how much it is unionized, and the size and number of employers in it affect the impact of pay equity legislation?
- How effective has pay equity legislation been elsewhere in Canada? How could its effectiveness and efficiency been improved?
- Does the cost of pay equity legislation reduce its effectiveness? How could costs be reduced?
- Is the cost of pay equity legislation worth paying in relation to its effects? Why or why not?

APPENDIX B: LIST OF SUBMISSIONS

From Business Organizations

Association of Canadian Financial Corporations
BC Gas Utility Ltd.
Business Council of British Columbia
Coalition of BC Businesses
Greater Vancouver Regional District
Health Employers Association of British Columbia
High Tech Exchange Group
Weyerhaeuser

From Individuals

Kathleen Casprowitz
Timothy Conlin
Wayne Fraser
Suzanne Gregory
Fred J. Hilling
Janet Hudgins
John Lover
Pat Richards
Michèle Santraille and Daniel McDonald
Kenneth W. Woodward

From Labour Organizations

BC Federation of Labour
BC Nurses' Union
BC Teachers' Federation
Canadian Association of University Teachers and the Confederation of University Faculty Associations of British Columbia and the College Institute Educators' Association of British Columbia
College Institute Educators' Association
Communications, Energy and Paperworkers Union of Canada
CUPE, BC Division
CUPE Local 391 Vancouver Public Library Workers
East Kootenay District Labour Council
Hospital Employees' Union
International Union of Operating Engineers
National Automobile, Aerospace, Transportation and General Workers of Canada
Office and Professional Employees' International Union, Local No. 378
Port Alberni and District Labour Council
Telecommunications Workers Union

Trade Union Research Bureau
United Brotherhood of Carpenters and Joiners of America, Local 2545
United Steelworkers of America
Vancouver and District Labour Council
Vancouver Island District Council of CUPE

From Other Groups

BC Human Rights Coalition
BC Human Rights Commission
Canadian Centre for Policy Alternatives, BC Office
Canadian Bar Association – Poverty Law Section
Canadian Federation of Students
Canadian Taxpayers Federation
Equality Committee of the Canadian Bar Association, BC Branch
Federated Anti-Poverty Groups of BC
Men's Equality Association
National Action Committee on the Status of Women – BC Region
North Shore Women's Centre
West Coast LEAF Association
Women's Quest
Working Group on Poverty

APPENDIX C: BIBLIOGRAPHY

Books

Barker, Kathleen, and Kathleen Christensen, eds. 1998. *Contingent Work: American Employment in Transition*. Ithaca, New York: Cornell University Press.

Chaykowski, Richard P., and Lisa Powell, eds. 1999. *Women and Work*. Montreal: McGill-Queen's University Press.

Cohn, Samuel. 2000. *Race and Gender Discrimination at Work*. Colorado: Westview Press.

Creese, Gillian. 1999. *Contracting Masculinity: Gender, Class, and Race in a White-Collar Union, 1944-1994*. Toronto: Oxford University Press.

Day, Shelagh, and Gwen Brodsky. 1998. *Women and the Equality Deficit: The Impact of Restructuring Canada's Social Programs*. Ottawa: Status of Women Canada.

Evans, Patricia M., and Gerda R. Wekerle, eds. 1999. *Women and the Canadian Welfare State: Challenges and Change*. Toronto: Toronto University Press.

Eyraud, F. *et al.*, eds. 1993. *Equal Pay Protection in Industrialised Market Economies: In Search of Greater Effectiveness*. Geneva: International Labour Office.

Figart, Deborah M., and Peggy Kahn. 1997. *Contesting the Market: Pay Equity & the Politics of Economic Restructuring*. Detroit: Wayne State University Press.

Frank, Tema. 1994. *Canada's Best Employers for Women: A Guide for Job Hunters, Employees and Employers*. Toronto: Frank Communications.

Fudge, Judy, and Patricia McDermott, eds. 1991. *Just Wages: A Feminist Assessment of Pay Equity*. Toronto: University of Toronto Press.

Gregory, Jeanne, Rosemary Sales, and Ariane Hegewisch, eds. 1999. *Women, Work and Inequality: The Challenge of Equal Pay in a Deregulated Labour Market*. London: St. Martin's Press.

Gunderson, Morley, and Leon Muszynski. 1990 (June). *Women & Labour Market Poverty*. Ottawa: Canadian Advisory Council on The Status of Women Canada.

Humphries, Jane, and Jill Rubery, eds. 1995. *The Economics of Equal Opportunities*. Manchester, England: Equal Opportunities Commission.

Joshi, Heather, Pierella Paci, Gerald Makepeace, and Jane Waldfogel. 1998. *Unequal Pay for Women and Men – Evidence from the British Birth Cohort Studies.* Cambridge, Massachusetts: MIT Press.

Killingsworth, Mark. 1990. *The Economics of Comparable Worth.* Kalamazoo, Michigan: W.E. Upjohn Institute for Employment Research.

King, Mary C. 2001. *Squaring Up – Policy Strategies to Raise Women's Income in the United States.* Ann Arbor: University of Michigan Press.

Lewis, Debra J. 1988. *Just Give Us The Money: A Discussion of Wage Discrimination and Pay Equity.* Vancouver: Women's Research Centre.

Michael, Robert T., and Heidi I. Hartmann *et al.*, eds. 1989. *Pay Equity – Empirical Inquiries.* Washington, D.C.: National Academy Press.

Mutari, Ellen, Heather Boushey and William Fraher IV, eds. 1997. *Gender and Political Economy: Incorporating Diversity into Theory and Policy.* Armonk, New York: M.E. Sharpe.

Nelson, Robert L., and William P. Bridges. 1999. *Legalizing Gender Inequality: Courts, Markets, and Unequal Pay for Women in America.* New York: Cambridge University Press.

Rhoads, Steven E. 1993. *Incomparable Worth – Pay Equity Meets the Market.* New York: Cambridge University Press.

Rubery, Jill, with Francesca Bettio, *et al.* 1998. *Equal Pay in Europe?: Closing the Gender Wage Gap.* New York: St Martin's Press.

Timpson, Annis May. 2001. *Driven Apart: Women's Employment Equality and Child Care in Canadian Public Policy.* Vancouver: UBC Press.

Weiner, Nan, and Morley Gunderson. 1990. *Pay Equity: Issues, Options and Experiences.* Toronto: Butterworths.

Journal Articles and Chapters in Books

Canadian

Abbott, Michael G. 1989. Equal Value Tests for Pay Equity. In *Pay Equity Legislation: Linking Economic Issues and Policy Concerns,* ed. Richard P. Chaykowski Research and Current Issues Series No. 59. 20-35. Kingston, Ontario: Queens University Industrial Relations Centre.

Altman, Morris, and Louise Lamontagne. 1996. Gender pay inequality and occupational change in Canada, 1900-1930. *Journal of Socio-Economics* 25 (3): 286.

Armstrong, Pat. 1999. The State and Pay Equity: Juggling similarity and difference, meaning, and structures. In *Women and the Canadian Welfare State: Challenges and Change*, eds. Patricia M. Evans, and Gerda R. Wekerle 246-265. Toronto: University of Toronto Press.

Armstrong, Pat. 1997. Pay Equity: Not just a matter of money. In *Women and the Canadian State*, eds. Caroline Andrew, and Sanda Rodgers 122-137. Montreal: McGill-Queen's University Press.

___, and Hugh Armstrong. 1992. Lessons from pay equity. In *Feminism in Action*, eds. M. Patricia Connelly and Pat Armstrong 295-316. Toronto: Canadian Scholar's Press.

____, and Hugh Armstrong. 1991. Limited possibilities and possible limits: within and beyond the Ontario Legislation. In *Just Wages: A Feminist Assessment of Pay Equity*, eds. Judy Fudge and Patricia McDermott 110-121. Toronto: University of Toronto Press.

Baines, Beverley. 2000. Occupational sex segregation and employment equity: Lessons from Canada. *Canada Labour & Employment Law Journal* 8: 291-324.

Baker, Michael, Dwayne Benjamin, Andreá Desaulniers, and Mary Grant. 1995. The distribution of the male/female wage differential, 1920-1990. *Canadian Journal of Economics* 28 (3): 479-500.

Bakker, Isabella. 1991. Pay equity and economic restructuring: The polarization of policy in *Just Wages: A Feminist Assessment of Pay Equity*, eds. Judy Fudge and Patricia McDermott 254-280. Toronto: University of Toronto Press.

Bannerman, J., K. Chopik, and A. Zurbrigg. 1984. Cheap at half the price: The history of the Fight for pay equity in BC. In *Not Just Pin Money: Selected Essays on the History of Women's Work in British Columbia*, eds. Barbara Latham and Roberta Pazdro 297-313. Victoria: Camosun College.

Bédard, Marie-Josée, et Carole Massé. n.d. L'équité salariale au Québec, en Ontario et au fédéral. Dans *Relation d'emploi et droits de la personne: évolution et tensions!*, éd. Denis Nadeau et Benoît Pelletier 83-101. Québec: Les Éditions Yvon Blais.

Brodie, Janine. 1996. Introduction: Canadian women, changing state forms, and public policy. In *Women and Canadian Public Policy*, ed. Janine Brodie 1-28. Toronto: Harcourt Brace.

Chaykowski, Richard P., and Lisa M. Powell. 1999. Women and the labour market: Recent trends and policy issues. *Canadian Public Policy* XXV (1).

Chicha, Marie-Thèrèse. 1999. The impact of labour market transformations on the effectiveness of laws promoting workplace gender equality. In *Women and Work*, eds. Richard P. Chaykowski & Lisa Powell 283-304. Montreal: McGill-Queen's University Press.

Chicha-Pontbriand, Marie-Thérèse. n.d. Deuxième Exposé. Dans *Équité en Matière de Salaire et D'emploi*, éd Michel Brossard 83-87. Montrèal: Université de Montrèal, École de relations industrielles.

Christofides, L. and R. Swidinsky. 1994. Wage determination by gender and visible minority status: Evidence from 1989 LMAS. *Canadian Public Policy* 20(1): 34-51.

Cihon, Patrick. 1988. Comparable worth: The Quebec experience. *J. Collective Negotiations* 17 (3): 249-255.

Cornish, Mary. 1996. Employment and pay equity in Canada: Success brings both attacks and new initiatives. *United States Law Journal* 22: 265.

Cuneo, Carl J. 1991. The state of pay equity: Mediating gender and class through political parties in Ontario. In *Just Wages: A Feminist Assessment of Pay Equity*, eds. Judy Fudge and Patricia McDermott 33-59. Toronto: University of Toronto Press.

Editorial *The Globe and Mail*. November 13, 2001.

Evans, Patricia M., and Gerda R. Wekerle. 1997. The shifting terrain of women's welfare: Theory, discourse, and activism. In *Women and the Canadian Welfare State: Challenges and Change*, eds. Patricia M. Evans and Gerda R. Wekerle 3-27. Toronto: University of Toronto.

Findlay, Sue. 1991. Making sense of pay equity: Issues for a feminist political practice. In *Just Wages: A Feminist Assessment of Pay Equity*, eds. Judy Fudge and Patricia McDermott. 81-109. Toronto: University of Toronto Press.

Finnie, R., and Ted Wannel. 1999. The gender earnings gap amongst Canadian bachelor's level university graduates: A cross-cohort longitudinal analysis. In *Women and Work*, eds. Richard Chaykowski and Lisa Powell 1-50. Montreal: McGill-Queen's University Press.

Fortin, Nicole M., and Michael Huberman. 2002 *Occupational Gender Segregation in Canada: A Historical Perspective*. Produced for University of British Columbia, Université de Montréal and CIRANO. [forthcoming in *Canadian Public Policy*].

Fudge, Judy. 1996. Fragmentation and feminization: The challenge of equity for labour relations policy. In *Women and Canadian Public Policy*, ed. Janine Brodie 59-87. Toronto: Harcourt Brace.

___. 1991. Litigating our way to gender neutrality: Mission impossible? In *Just Wages: A Feminist Assessment of Pay Equity*, eds. Judy Fudge and Patricia McDermott 60-77. Toronto: University of Toronto Press.

George, Peter, and Peter Kahn. 1994 (February). The size and structure of native-white wage differentials in Canada. *Canadian Journal of Economics* XXVII (1).

Griffin Cohen, Marjorie. 1997. From the welfare state to vampire capitalism. In *Women and the Canadian Welfare State: Challenges and Change*, eds. Patricia M. Evans and Gerda R. Wekerle 28-67. Toronto: University of Toronto Press.

Gunderson, Morley. 2002 (December). The evolution and mechanisms of pay equity in Ontario. Toronto. [forthcoming in *Canadian Public Policy*].

___. 1995. Gender discrimination and pay equity legislation. In *Aspects of Labour Market Behaviour*, eds. Louis N. Christofides, Kenneth Grant, and Robert Swidinsky 225-249. Toronto: University of Toronto Press.

Haignere, Lois. 1991. Pay Equity Implementation: Experimentation, Negotiation, Mediation, Litigation, and Aggravation. In *Just Wages: A Feminist Assessment of Pay Equity*, eds. Judy Fudge & Patricia McDermott 160-171. Toronto: University of Toronto Press.

Handman, Suzanne, and Karen Jensen. 1999. Pay equity in Canada: An overview. *Canadian Labour & Employment Law Journal* 7(1): 68-89.

Hum, Derek. 1987. Fair wages in the republic: An essay on equal pay legislation for the private sector. *Manitoba Law Journal* 16 (3): 203.

Jenish, D'Arcy, and Berton Woodward. 2001 (November). Canada's top 100 employers. *Maclean's* 5: 46-53.

Juillet, Luc, ed. 1999 (December). Employment equity and diversity in provincial public administrations. *Public Service Commission Quarterly Updates* 1 (4).

Kainer, Jan. 1995. Pay equity strategy and feminist legal theory: Challenging the bounds of liberalism. *Canadian Journal of Women and the Law* 8 (2): 440-469.

Lavoie, Guy, and Marie-Noël Massicotte. 2001 (March). Complying with Quebec's new pay equity legislation. *Workplace Equity Guide* 7: 1.

McColgan, Aileen. 1993 (December). Legislating equal pay: Lessons from Canada. *Industrial Law Journal* 22 (4).

McDermott, Patricia. 1999. Pay equity lessons from Ontario, Canada. In *Women, Work and Inequality: The Challenge of Equal Pay in a Deregulated Labour Market*, eds. Jeanne Gregory, Rosemary Sales, and Ariane Hegewisch 141-152. New York: St. Martin's Press.

___. 1996. Pay and employment equity: why separate policies. In *Women and Canadian Public Policy*, ed. Janine Brodie 89-103. Toronto: Harcourt Brace.

___. 1993. Equal pay in Canada. In *Equal Pay Protection in Industrialised Market Economies: In Search of Greater Effectiveness*, eds. F. Eyraud, *et al.* 43-59. Geneva: International Labour Office.

___. 1992 Employment equity and pay equity, and never the twain shall meet. *Canadian Woman Studies*, 12 (3): 24-27.

___. 1991. Pay equity in Canada: Assessing the commitment to reducing the wage gap. In *Just Wages: A Feminist Assessment of Pay Equity*, eds. Judy Fudge and Patricia McDermott 21-32. Toronto: University of Toronto Press.

___. 1990. Pay equity in Ontario: A critical legal analysis. *Osgoode Hall Law Journal* 28 (2): 381-407.

McDonald, Judith A., and Robert J. Thornton. 1998. Private-sector experience with pay equity in Ontario. *Canadian Public Policy* XXIV (2): 185-208.

Murphy, Marie. 1997. Pay equity in Quebec. In *Women and the Canadian State*, eds. Caroline Andrew, and Sanda Rodgers 138-144. Montreal: McGill-Queen's University Press.

Olshevski, V. 1987. Understanding pay equity. *Manitoba Law Journal* 16 (3): 237-244.

Press Release. York University Faculty Association. Octcber 9, 2001. www.yufa.org/news.

Ramkhalawansingh, Ceta. 1993 (Summer). Employment standards legislation: A primary source of women's employment inequality. *Canadian Labour Law Journal* 2: 80-89.

Sullivan, Nancy. 1997. Pay equity in Manitoba. In *Women and the Canadian State*, eds. Caroline Andrew and Sanda Rodgers 116-121. Montreal: McGill-Queen's University Press.

The Case For Pay Equity: Excerpt from the 1995 Annual Report of the Canadian Human Rights Commission. 1996. *Worklife Report* 10 (1): 14.

Vancouver Sun. February 18, 2002. B.C.'s budget challenge years in the making. p. A1, A4.

Warskett, Rosemary. 1991. Political power, technical disputes and unequal pay: A federal case. In *Just Wages: A Feminist Assessment of Pay Equity*, eds. Judy Fudge and Patricia McDermott 172-192. Toronto: University of Toronto Press.

Weiner, Nan. 1993 (Summer). Employment equity and pay equity: Similarities, differences and integration. *Canadian Labour Law Journal* 2: 16-31.

Werkerle, Gerda R. 1997. The shift to the market: Gender and housing disadvantage. In *Women and the Canadian Welfare State: Challenges and Change*, eds. Patricia M. Evans and Gerda R. Wekerle 170-194. Toronto: University of Toronto Press.

Worswick, Christopher. 1996. Immigrant families in the Canadian labour market. *Canadian Public Policy* XXII (4): 378-396.

United States and Others

Akerlof, George A., and Rachel E. Kranton. 2000. Economics and identity. *The Quarterly Journal Of Economics* CXV (3): 715-753.

Ames, Lynda J. 1955. Fixing women's wages: the effectiveness of comparable worth policies. *Industrial and Labor Relations Review* 48 (4): 709-725.

Antecol, Heather. 2001 (Winter). Why is there interethnic variation in the gender wage gap?: The role of cultural factors. *Journal of Human Resources* 36 (1): 119.

Anker, Richard. 1997. Theories of occupational segregation by sex: An overview. *International Labour Review* 136 (3): 315-339.

Baldwin, Marjorie L. 1994. Estimating wage discrimination against workers with disabilities. *Cornell Journal of Law and Public Policy* 3: 276-290.

___, R. Butler, and W.G. Johnson. 2001. Hierarchical theory of occupational segregation and wage discrimination. *Economic Inquiry* 39 (1): 94-110.

Bellace, Janice R. 1993. Equal pay in the United States. In *Equal Pay Protection in Industrialised Market Economies: In Search of Greater Effectiveness,* eds. F. Eyraud, et al. 159-173. Geneva: International Labour Office.

Borland, Jeff. 1999. The equal pay case - Thirty years on. *The Australian Economic Review* 32 (3): 265-272.

Boushey, Heather. 1997. Embracing discrimination? The interaction between low-wage labor markets and policies in aid of the poor. In *Gender and Political Economy: Incorporating Diversity into Theory and Policy*, eds. Ellen Mutari, Heather Boushey, and William Fraher IV 170-187. New York: M.E. Sharpe.

Branch, Kathryn. 1994. Are women making as much as men? Employment inequities, gender roles and public policy. *Duke Journal of Gender Law and Policy* (3/4): 138-148.

Branney, Virginia, Marisa Howes, with Ariane Hegewisch. 1999. Union strategies in pursuit of pay equity: The role of unison. In *Women, Work and Inequality: The Challenge of Equal Pay in a Deregulated Labour Market*, eds. Jeanne Gregory, Rosemary Sales, and Ariane Hegewisch 208-217. New York: St. Martin's Press.

Browne, M. Neil, and Andrea M. Giampetro. 1987. The socially responsible firm and comparable worth. *American Business Law Journal* 25: 467-486.

Bruegel, Irene. 1999. Globalization, feminization and pay inequalities in London and the UK. In *Women, Work & Inequality: The Challenge of Equal Pay in a Deregulated Labour Market*, eds. Jeanne Gregory, Rosemary Sales, and Ariane Hegewisch 73-93. New York: St. Martin's Press.

Carlin, Paul, and Patrick Rooney. 2000 (March). Am I paid fairly? *Change* 32 (2): 40.

Cohen, Robert H. 1995 (March). Pay equity: A child of the 80s grows up. *Fordham Law Review* 63 (5): 1461-1493.

Coleman, Martha. 1999. Pay equity hard work down under. In *Women, Work and Inequality: The Challenge of Equal Pay in a Deregulated Labour Market*, eds. Jeanne Gregory, Rosemary Sales, and Ariane Hegewisch 58-72. New York: St. Martin's Press Inc.

Drago, Robert. 1998. New systems of work and new workers. In *Contingent Work: American Employment Relations in Transition*, eds. Kathleen Barker and Kathleen Christensen 144-169. Ithaca: New York: Cornell University Press.

England, Paula. 1999. The case for comparable worth. *Quarterly Review of Economics and Finance* 39: 743.

Eyraud, François. 1993. Equal pay: An international overview. In *Equal Pay Protection in Industrialised Market Economies: In Search of Greater Effectiveness*, eds. F. Eyraud, *et al.* 1-21. Geneva: International Labour Office.

Figart, Deborah M., and Ellen Mutari. 1999. Global feminization and flexible labour markets: Gendered discourse in the opposition to pay equity reform. In *Women, Work and Inequality: The Challenge of Equal Pay in a Deregulated Labour Market*, eds. Jeanne Gregory, Rosemary Sales, and Ariane Hegewisch 44-57. New York: St. Martin's Press.

___. and J. Lapidus. 1997. Reversing the great u-turn: Pay equity, poverty, and inequality. In *Gender and Political Economy: Incorporating Diversity into Theory and Policy*, eds. Ellen Mutari, Heather Boushey, and William Fraher IV 188-205. Armonk, New York: M.E. Sharpe.

___, and June Lapidus. 1996 (August). The impact of comparable worth in earnings inequality. *Work & Occupations* 23 (3): 297.

Gardner, Susan E., and Christopher Daniel. 1998. Implementing comparable worth/pay equity: Experiences of cutting edge states. *Public Personnel Management* 27 (4): 475-489.

Gill, Leigh, M. Andrew, and E. Duane. 2000 (October). Community college enrollment, college major, and the gender wage pap (Part 1). *Industrial & Labour Relations Review* 54 (1): 163.

Gilman, Mark, and Paul Edwards. 1999. Pay equity and the national minimum wage: What can theories tell us? *Human Resource Management Journal* 9 (1).

Gregory, Jeanne. 1997 (December). Harmonisation or deregulation?: Implementing equal pay law in the European Union and the United Kingdom. *Victoria University of Wellington Law Review* 27 (4): 555-568.

___, Ariane Hegewisch, and Rosemary Sales. 1999. Introduction. In *Women, Work & Inequality: The Challenge of Equal Pay in a Deregulated Labour Market*, eds. Jeanne Gregory, Rosemary Sales, and Ariane Hegewisch 1-24. New York: St. Martin's Press.

Groshen, Erica L. 1990. The structure of the female/male wage differential, Is it who you are, what you do or where you work? *The Journal of Human Resources* XXVI: 457-472.

Hartmann, Heidi I., and Stephanie Aaronson. 1994. Pay equity and women's wage increases: Success in the States, A model for the nation. *Duke Journal of Gender Law and Policy* 1: 69-79.

Hastings, Sue. 1999. Negative (Pay) Equity: An analysis of some (side-) effects of the Equal Pay Act. In *Women, Work and Inequality: The Challenge of Equal Pay in a Deregulated Labour Market*, eds. Jeanne Gregory, Rosemary Sales, and Ariane Hegewisch 153-167. New York: St. Martin's Press.

Hoskins, Catherine. 1999. Then and now: Equal pay in European Union politics. In *Women, Work and Inequality, The Challenge of Equal Pay in a Deregulated Labour Market*, eds. Jeanne Gregory, Rosemary Sales, and Ariane Hegewisch 27-43. New York: St. Martin's Press.

Hundley, Greg. 2000 (October). Male/female earnings differences in self-employment: The effects of marriage, children, and the household division of labour. *Industrial & Labour Relations Review* 54 (1): 95.

___. 1992. The effects of comparable worth in the public sector on public/private occupational relative wages. *The Journal of Human Resources* XXVIII: 318-342.

Ingeborg, Heide. 1999. Supranational action against sex discrimination: Equal pay and equal treatment in the European Union. *International Labour Review* 138 (4): 381-410.

Johnson, Brian S. 1998. Ensuring equality: Pursuing implementation of the equal pay principle via the institutions of the European Union, the North American Agreement on Labor Cooperation, and Corporate Codes of Conduct. *Virginia Journal of International Law* 38 (4): 849.

Johnson, George, and Gary Solon. 1986. Estimates of the direct effects of comparable worth policy. *The American Economic Review* 76: 1117-1125.

Kahn, Peggy, and Deborah Figart. 1999. Public sector reforms in a changing economic and political climate: Lessons from Michigan. In *Women, Work and Inequality, The Challenge of Equal Pay in a Deregulated Labour Market*, eds. Jeanne Gregory, Rosemary Sales, and Ariane Hegewisch 183-195. New York: St. Martin's Press.

Kates, Carol A. 1994. Pay equity and wage justice. *Review of Radical Political Economics* 26 (2): 1-23.

Keaveny, Timothy J., and Edward J. Inderrieden. 1999. Gender differences in employer-supported training and education. *Journal of Vocational Behavior* 54 (1) 71-81.

Killingsworth, Mark R. 2002. *Comparable Worth and Pay Equity: Recent Developments in the United States*. Rutgers University and National Bureau of Economic Research. [forthcoming].

Kubasek, Nancy K., Jennifer Johnson, and M. Neil Browne. 1994 (Spring). Comparable worth in Ontario: Lessons the United States can learn. *Harvard Women's Law Journal* 17: 103-132.

Lerman, Robert. 2000. Meritocracy without rising inequity. *The Urban Institute Report* 2: 1-6.

MacPherson, David A., and Barry T. Hirsch. 1995. Wages and gender composition: Why do women's jobs pay less? *Journal of Labour Economics* 13 (3): 426-471.

McCrudden, Christopher. 1993. Equal pay in the United Kingdom. In *Equal Pay Protection in Industrialised Market Economies: In Search of Greater Effectiveness*, eds. F. Eyraud, *et al.* 141-155. Geneva: International Labour Office.

McGlynn, Clare, and Catherine Farrelly. 1999. Equal pay and the protection of women within family life. *European Law Review*. 24: 202-207.

Millward, Neil, and Stephen Woodland. 1995. Gender segregation and male/female wage differences. In *The Economics of Equal Opportunities*, eds. Jane Humphries and Jill Rubery 221-244. Manchester, England: Equal Opportunities Commission.

Moore, Mary V., and Yohannan T. Abraham. 1995 (Fall). Comparable worth: Is it a moot issue? Part III, controversy, implications, and measurement. *Public Personnel Management* 24 (3): 291.

Moore, Sarah. 1995 (April). Justice doesn't mean a free lunch: The application of the principle of equal pay to occupational pension schemes. *European Law. Review* 20: 159-177.

Mutari, Ellen, 2000 (December). Work time regimes in Europe: Can flexibility and gender equity coexist? *Journal of Economic Issues* 34 (4): 847.

___. 1997 (September). Markets, flexibility, and family: Evaluating the gendered discourse against pay equity. *Journal of Economic Issues* 31 (3): 687.

___. and Deborah Figart. 1997. Comparable worth in a restructuring economy. In *Gender and Political Economy: Incorporating Diversity Into Theory and Policy*, eds. Ellen Mutari, Heather Boushey, and William Fraher IV. 115-129. Armonk, New York: M.E. Sharpe.

Orazem, Peter F., and J. Peter Mattila. 1990. The implementation process of comparable worth: Winners and losers. *Journal of Political Economy* 98 (1): 134-152.

Oster, Sharon M. 1993. Is there a policy problem?: The gender wage gap. *The Georgetown Law Journal* 82 (1): 109-119.

Peterson, Janice. 1999 (Fall). Contesting the market: Pay equity and the politics of economic restructuring. *Eastern Economic Journal* 25 (4): 501-502.

Quinn, Jennifer M. 1994. Visibility and value: The role of job evaluation in assuring equal pay for women. *Law & Policy in International Business* 25 (4): 1403-1444.

Rathbone, Eleanor. 1917. The remuneration of women's services. *Economic Journal* 55-68.

Rubery, Jill, *et al.* 1998. Payment systems and gender pay differentials: Some societal effects. In *Equal Pay in Europe: Closing the Gender Wage Gap,* Jill Rubery *et al.* 1-31. New York: St. Martin's Press.

___, and Fagan, Colette. 1994. Equal pay policy and wage regulation systems in Europe. *Industrial Relations Journal* 25 (4): 281-292.

Sørensen, Annemette, and Heike Trappe. 1995 (June). The persistence of gender inequality in earnings in the German Democratic Republic. *American Sociological Review* 60: 398-406.

Spalter-Roth, Roberta, and Heidi Hartmann. 1998. Gauging the consequences for gender relations, pay equity, and the public purse. In *Contingent Work, American Employment Relations in Transition*, eds. Kathleen Barker and Kathleen Christensen 69-100. Ithaca, NY: Cornell University Press.

Steinberg, Ronnie and Lois Haignere. 1987. Equitable compensation: methodological criteria for comparable worth In *Ingredients for Employment Policy,* eds. Christina Bose & Glenna Spitze 157-182. Albany, N.Y: SUNY Press.

Thornton, Margaret. 1993. Equal pay in Australia. In *Equal Pay Protection in Industrialised Market Economies: In Search of Greater Effectiveness,* eds. F. Eyraud *et al.* 23-37. Geneva: International Labour Office.

Tzannatos, Zafiris. 1999. Women and labor market changes in the global economy: Growth helps, inequalities hurt and public policy matters. *World Development* 27 (3): 551-569.

Ver Ploeg, Christine D. 2000. Pay equity in interest arbitration. *William Mitchell L. Review* 27 (2): 811-839.

Waldfogel, Jane. 1998 (Winter). Understanding the family gap in pay for women with children. *Journal of Economic Perspectives* 12 (1): 137-156.

Presentation Papers

Beijing Declaration. 1995 (September). Fourth World Conference on Women. Paper presented to the Fourth World Conference on Women. [online] [cited January 8, 2002]. www.un.org/womenwatch/daw/beijing/platform/declar.htm

Cassidy, Mark, Eric Strobl, and Robert Thornton. 2001 (June 4-5). Gender Pay Differentials and Equality Legislation in the Republic of Ireland. Paper prepared for the Conference on Occupational Gender Segregation: Public Policies and Economic Forces. Ottawa.

___, and Fay Faraday. 1999 (November 4-7). *The Future of Pay Equity Enforcement in Canada.* Paper presented to the LEAF National Forum on Equality Rights, Transforming Women's Future: Equality Rights in the New Century. Vancouver. [online] [cited October 25, 2001]. www.cavalluzzo.com/publications/newsletters/payequit.html

___. 1999 (November 4-7). *Strategies for achieving employment equity.* Paper presented to the LEAF National Forum on Equality Rights, Transforming Women's Future: Equality Rights in the New Century. Vancouver.

Faraday, Fay. 2001 (March 2). *Imagining a New Federal Pay Equity Law: Some Lessons from the Ontario Context.* Paper presented to the Pay Equity Think Tank with the Canadian Labour Congress National Women's Committee. Ottawa.

Gallant, Carrie, and Scott Streiner. 1998 (June). *Pay Equity In Canada: Lessons Learned and Future Directions.* Paper presented to the Fifth Women's Policy Research Conference. Washington, D.C.

Genge, Susan. 1994 (September). *Pay Equity in Canada: What Works? – Trade Union Pay Equity Practitioners Examine Their Experiences.* Paper presented to the Let's Talk Equal Pay Seminar and prepared for Human Resources Development, Canada. Ottawa: Minister of Supply and Services Canada.

Gunderson, Morley, and Roberta Robb. 1987 (June 25-26). *Comparable Worth In Canada.* Paper presented to the Pacific Rim Comparative Labour Policy Conference. Vancouver: University of British Columbia.

Leck, Joanne D. 2001 (June 4-5). *Making Employment Equity Programs Work for Women.* Paper presented to the Occupational Gender Segregation: Public Policies & Economic Forces Conference. Ottawa: CIRANO.

Millar, Elizabeth. 1999 (November 4-7). *Pay Equity from a Federal Perspective, Success in Spite of Sabotage.* Paper presented to the West Coast LEAF National Forum on Equality Rights, Transforming Women's Future.

Morris, Marika. 2000 (May 29). *Women, Poverty and Canadian Public Policy in an Era of Globalization.* Paper presented to the International Colloquium: Globalization, Societies, Cultures, Congress of the Social Sciences and Humanities. Edmonton: Canadian Research Institute for the Advancement of Women.

Samy, Sushila, and Fay Faraday. 1999 (November 4-7). *Employment Equity – Who has benefited?* Paper prepared for A National Forum on Equality Rights presented by West Coast Leaf. Vancouver. (Workshop 15, Series D).

Weiner, Nan, Ph.D. 2001 (June 4-5). *Canadian Pay Equity: The Past and Future*. Paper presented to the Conference on Occupational Gender Segregation. Ottawa: NJ Weiner Consulting.

Briefs, Reports and Studies

Baker, Michael, and Nicole M. Fortin. 2000 (August). *Does Comparable Worth Work in a Decentralized Labour Market?* 2nd ed. University of Toronto and NBER, and University of British Columbia, CRDE, and CIRANO.

Banducci, Bonita, Julie O'Mara, and Jeffrey Wildfogel. 1995 (May). *Closing the Gender Gap: What Can We Do*. Toronto: Royal Bank of Canada, Employment Equity and Diversity Management.

B.C. Hydro, 2001, *The Journey to Sustainability*. Triple Bottom Line Report. Vancouver: BC Hydro.

______. 2001 (May). *Annual Report on Multiculturalism: April 1, 2000 – March 31, 2001*. Vancouver: Human Resources Planning and Development – Diversity.

Bienvenu, Claudyne, with assistance of Frédérique Poirier. 2001. L'équité salariale pour les travailleuses québécoises non syndiquées – Examen du régime proactif québécois. Le Conseil d'intervention pour l'accéss des femmes au travail (CIAFT) [Online] [accessed November 26, 2000]. www.ciaft.qc.ca/pubress

Burkart, M. Lynn. 1990. *Implementing Pay Equity in Ontario*. Research Essay Series No. 28. Kingston, Ontario: Industrial Relations Centre, Queens University.

Canadian Labour Congress. 2001 (March 2). *Pay Equity Think Tank*. Report of the Meeting & Plan of Action [unpublished].

Chaykowski, Richard, ed. 1989. *Pay Equity Legislation: Linking Economic Issues and Policy Concerns*. Research and Current Issues No.59. Kingston, Ontario: Industrial Relations Centre, Queen's University.

Creese, Gillian, and Robin Dowling. 2001 (January). *Gendering Immigration: The Experience of Women in Sydney and Vancouver*. Research on Immigration and Integration in the Metropolis Working Paper Series #01-04. Vancouver: Centre of Excellence.

Duxbury, Linda, and Chris Higgins. 2001 (October). *Work Balance in the New Millennium: Where Are We? Where Do We Need to Go?* CPRN Discussion Paper No. W/12. Ottawa: Canadian Policy Research Networks, Work Network.

Equal Pay Coalition. 2001 (April). *Looking Forward: A New Tribunal for Ontario's Workplaces.* Response to the Ministry of Labour Consultation Paper. Toronto: Equal Pay Coalition.

Fawcett, Gail. 2000. *Bringing Down the Barriers: The Labour Market and Women with Disabilities in Ontario.* Ottawa: Canadian Council on Social Development.

Gunderson, Morley. 1998. *Women and the Canadian Labour Market – Transitions Towards the Future.* Toronto: Statistics Canada & International Thomson Publishing. Cat. No. 96-321-MPE: 2.

___, and Paul Lanoie. 1999 (November). *Program Evaluation Criteria Applied to Pay Equity In Ontario.* Montreal: CIRANO.

Hadley, Karen. 2001 (June). *And We Still Ain't Satisfied: Gender Inequality In Canada - A Status Report for 2001.* Toronto: National Action Committee on the Status of Women and CSJ Foundation for Research and Education.

Harkness, Susan, and Jane Waldfogel. 1999 (November). *The Family Gap in Pay.* London: Centre for Analysis of Social Exclusion. CASEbrief 13.

Hayfron, John E. 1997 (September). *Estimating Immigrants' Occupational Choice and Occupational Wages with Selectivity Bias.* Research on Immigration and Integration in the Metropolis, Working Paper Series #97-07. Vancouver: Centre of Excellence.

Hiebert, Daniel. 1997 (March). *The Colour of Work: Labour Market Segmentation in Montréal, Toronto and Vancouver, 1991.* Research on Immigration and Integration in the Metropolis, Working Paper Series #97-02. Vancouver: Centre of Excellence.

Hospital Employees' Union. 1999 (April). *Bridging the Gap: A Mid-Contract Pay Equity Update.* British Columbia: Canadian Union of Public Employees, B.C. Health Services Division.

Hughes, Karen D. 1999. *Gender & Self-Employment in Canada: Assessing Trends & Policy Implications.* CPRN study no. W104. Ottawa: Renouf Publishing.

Johnson, Karen L., Donna S. Lero, and Jennifer A. Rooney. 2001. *Work-Life Compendium 2001 – 150 Canadian Statistics on Work, Family and Well-Being.* Ontario: University of Guelph Centre for Families, Work and Well-Being.

Nanavati, Arti. 1998 (September). *Labour Market Experiences of South Asia-Born Women in Vancouver.* Research on Immigration and Integration in the Metropolis, Working Paper Series #98-17. Vancouver: Centre of Excellence.

Pendakur, Krishna, and Ravi Pendakur. 1996 (May). *The Colour of Money: Earnings Differentials Among Ethnic Groups in Canada.* Research on Immigration and Integration in the Metropolis, Working Paper Series #96-03. Vancouver: Centre of Excellence.

Scott, Katherine, and Clarence Lochhead. 1997 (July). *Are Women Catching up in the Earnings Race?* Social Research Series Paper No. 3. Ottawa: Canadian Council on Social Development.

Shamsuddin, Abul F.M. 1997 (June). *The Double-Negative Effect on the Earnings of Foreign-born Females in Canada.* Research on Immigration and Integration in the Metropolis Working Paper Series #97-04. Vancouver: Centre of Excellence.

Sharma, Nandita Ph.D. 2000. *Migrant Workers in Canada: Myth or Reality?* Submitted to *International Migration Review.*

Vickers, David Alan. 1999. *The Study of Pay Equity in Private and Public Sector in Canada.* (Thesis) Vancouver: Simon Fraser University, Department of Economics.

Resources Available from the Internet

Beach, Jane, Martha Friendly, and Lori Schmidt. 1993. *Work Related Child Care in Context: A Study of Work-Related Child Care in Canada.* Occasional Paper No. 3 Toronto: CRRU Publications. [online] [cited September 24, 2001]. www.childcarecanada.org/resources/CRRUpubs/op3/3optoc.html

Canadian Council on Social Development. 2001 (April). *Minimum Wage Rates for Experienced Adult Workers in Canada and the Provinces.* Canada: Human Resources Development Canada, Labour Program. [online] [cited October 22, 2001]. www.ccsd.ca/fs_minw.htm

Canadian Union of Public Employees. n.d. *The Pay Equity Lobbyist.* British Columbia: Canadian Union of Public Employees. [online] [Accessed July 25, 2001]. www.cupe.bc.ca/equity/lobbyist_2.html

Chartered Accountants of British Columbia. 2001 (September). British Columbia as a Place to Live Work and Invest. *BC Check-Up* British Columbia: Chartered Accountants of British Columbia. [online] [cited October 3, 2001]. http://www.bccheckup.com/oheckup.html

Childcare Resource and Research Unit. 1996. Childcare in Canada 1996. Toronto: CRRU Publications. [online] [cited September 24, 2001]. www.childcarecanada.org/resources/CRRUpubs/factsheets/sheet1.html

___. n.d. The Early Childhood Development Agreement: Provincial Initiatives spending allocations 2001 – 2002 (B.C.). Briefing Notes. Toronto: CRRU Publications. [online] [cited September 24, 2001]. www.childcarecanada.org/resources/CRRUpubs/factsheets/ecd_chart/bc.html

Davies, Lorraine, Julie Ann McMullin, William R. Avison, and Gale L. Cassidy. 2001 (February). *Social Policy, Gender Inequality and Poverty.* Ontario: Status of Women Canada. [online] [cited August 22, 2001]. www.swc-cfc.gc.ca/publish/research/01312-0662653327-e.html

Doherty, Gillian, Ruth Rose, Martha Friendly, Donna Lero, and Sharon Hope Irwin. 1995. *Child Care: Canada Can't Work Without it.* Executive Summary. Occasional Paper No. 5. Toronto: CRRU Publications. [online] [cited September 24, 2001]. www.childcarecanada.org/resources/CRRUpubs/op5/5optoc.html

Equal Pay Coalition. n.d. *Summary of the Amendments to the Pay Equity Act*. Toronto: Equal Pay Coalition. [online] [cited August 21, 2001]. www.web.net/~equalpay/summary.html

___. n.d. *The Ontario Pay Equity Experience*. Toronto: Equal Pay Coalition. [online] [cited August 21, 2001]. www.web.net/~equalpay/experien.html

FWCW Platform for Action: Women and the Economy. n.d. [online] [cited January 8, 2002]. www.un.org/womenwatch/daw/beijing/platform/economy.htm

International Labour Organization. n.d. *Decent work for women: An ILO proposal to accelerate the implementation of the Beijing Platform for Action.* International Labour Organization. [online] [cited December 18, 2001]. www.ilo.org/public/english/bureau/gender/beijing5/contribu/report.htm

Monette, Georges. 1996 (October 29). *Is There a Role for Statisticians in Pay Equity* [online] [cited August 9, 2001]. www.math.yorku.ca/Who/Faculty/Monette/pub/paperR1.html

National Pay Equity Coalition, the Women's Electoral Lobby, and the Australian Federation of Business and Professional Women (NSW Division). 1998 (July 3). *In the Matter of the NSW Pay Equity Inquiry.* Submission. No. 6320 of 1997. [online] [cited August 21, 2001]. www.users.bigpond.com/rj_gi/inquiry/womenorgs1.html

National Pay Equity Coalition. 1998 (May). *Making it Real: Affirmative Action in Workplaces.* [online] [cited August 21, 2001]. www.users.bigpond.com/rj_gi/AAA/npecaa.html

O'Hara, Kathleen. 1995 (September). *Pay Equity: A Hodgepodge of Legislation Across Canada.* New York: Office and Professional Employees International Union. [online] [August 16, 2001].www.bway.net/opeiu/resrch02.htm

Penn, Helen. 1999 (May). *A Framework for Equality: A European Perspective.* London: CRRU Publications. [online] [cited September 24, 2001]. www.childcarecanada.org/resources/CRRUpubs/factsheets/sheet7.html

Rochon, Yves. 1997 (July). *Quebec's New Family Policy.* Toronto: CRRU Publications. [online] [cited September 24, 2001]. www.childcarecanada.org/resources/CRRUpubs/factsheets/sheet6.html

Government Publications

Canada

Canadian Human Rights Commission

Canadian Human Rights Commission. 2001. *Time for Action, Special Report to Parliament on Pay Equity*. Ottawa: Canadian Human Rights Commission.

___. 2001. *Employment Equity Report 2000*. Ottawa: Minister of Public Works and Government Services.

___. 2000 (May). *Employment Systems Review – Guide to the Audit Process*. Ottawa: Employment Equity Branch.

___. 2000 (January). *Framework for Compliance Audits Under the Employment Equity Act*. Ottawa: Employment Equity Branch.

Statistics Canada

Akyeampong, Ernest B. 2001 (December). Fact-sheet on unionization. *Perspectives on Labour and Income*. Ottawa: Statistics Canada.

Baker, Michael, and Nicole Fortin. 2000 (August). *Gender Composition and Wages: Why is Canada Different from the United States?* Analytical Studies Branch – Research Paper Series, No.11F0019MPE no.140. Ottawa: Statistics Canada, Applied Research Branch HRDC and Business and Labour Market Analysis Division.

Bernier, Rachel. 1997 (December). *The Dimensions of Wage Inequality among Aboriginal Peoples*. Analytical Studies Branch – Research Paper Series (109). Ottawa: Statistics Canada, Business and Labour Market Analysis.

Butlin, George, and Jillian Oderkick. 1996 (December). *Educational Attainment: A Key to Autonomy and Authority in the Workplace*. SLID Research Paper Series. Ottawa: Statistics Canada.

Coish, David, and Alison Hale. 1995 (May) *The Wage Gap Between Men and Women: An Update*. The SLID Research Paper Series, No. 95-14. Ottawa: Statistics Canada, Household Surveys Division.

Corak, Miles. 1998. *Labour Markets, Social Institutions, and the Future of Canada's Children*. Ottawa: Statistics Canada. Cat. 89-553-XIB.

Drolet, Marie. 2001 (December). The male-female wage gap. *Perspectives*. Ottawa: Statistics Canada, Labour Market Analysis Division. Cat. 75-001-XIE: 5-13.

___. 2001 (January). *The Persistent Gap: New Evidence on the Canadian Gender Wage Gap*. (rev). Analytical Studies Branch – Research Paper Series, No.11F0019MPE, no. 157. Ottawa: Statistics Canada, Income Statistics Division.

___. 1999 (December). *The Persistent Gap: New Evidence on the Canadian Gender Wage Gap*. Ottawa: Statistics Canada, Income Statistics Division. Cat.75F0002MIE – 99008.

Easley, Arline. 2000 (September). Canadian women and work, review of nine research essays focuses on women's experience in the labour force. *Monthly Labour Review* 123 (9): 43.

Finnie, R., and G. Garneau. 1997 (October). Earnings patterns by age and sex. *Canadian Economic Observer* Cat. 11-010-XPB: 3.1-3.17.

Galarneau, Diane, and Louise Earl. 2000 (February). Women's and men's earnings. *Canadian Economic Observer* 3.1-3.17.

___. 1999 (Winter). Women's earnings/men's earnings. *Perspectives*. Ottawa: Statistics Canada, Labour and Household Surveys Analysis Division. Cat. 75-001-XPE: 20-26.

Hum, Derek, and Wayne Simpson. 1998 (November). *Wage Opportunities for Visible Minorities in Canada*. Labour Dynamics Working Paper Series, No. 75F0002M. Ottawa: Statistics Canada.

Kapsalis, C., R. Morissette, and G. Picot. 1999 (March). *The Returns to Education and the Increasing Wage Gap Between Younger and Older Workers*. Research Paper Series, No. 131. Ottawa: Statistics Canada, Analytical Studies Branch.

Leckie, Norm, *et al.* 2001 (September). *Employer and Employee Perspectives on Human Resource Practices*. Ottawa: Statistics Canada, Human Resources Development Canada. Cat. 71-584-MIE, no. 1.

Morissette, Rene. 1996 (September). *The Growth of Earning Inequality in Canada*. SLID Research Paper Series, No. 96-08. Ottawa: Statistics Canada, Business and Labour Market Analysis Division.

Pence, Alan R., *et al.* 1997. *Shared Diversity: An Interprovincial Report on Child Care in Canada*. Canadian National Child Care Study. Ottawa: Statistics Canada. Cat. 89-536-XPE.

Statistics Canada. 2001. *Labour Force Historical Review 2000*. Ottawa: Statistics Canada. Cat. No. 71F0004XCB.

___. 2001. *Women in Canada: Work Chapter Updates*. Target Groups Project. Ottawa: Statistics Canada. Housing, Family and Social Statistics Division. Cat. 89F0133XIE.

___. 2000. *Women in Canada 2000: A Gender-Based Statistical Report*. Ottawa: Statistics Canada. Cat. 89-503-XPE.

___. 1998 (Summer). *Labour Force Update: A New Perspective on Wages*. Ottawa: Ministry of Industry. 2 (3) Cat. 71-005-XPB.

___. 1997. *Earnings of Men and Women*. Ottawa: Income Statistics Division, Income and Labour Dynamics Section. Cat. 13-217-XIB.

___. 1996 Census *Nation*, tables. www.statcan.ca/english/pddb/people/labour

Wannell, Ted, and Nathalie Caron. 1994 (November). *The Gender Earnings Gap Among Recent Post Secondary Graduates 1984 – 1992*. Ottawa: Statistics Canada, Business and Labour Market Analysis Group. No. 68.

Status of Women Canada

Almey, Marcia. 1998. *Finding Data on Women: A Guide to Major Sources at Statistics Canada*. Ottawa: Status of Women Canada.

Bakan, Abigail B. and Audrey Kobayashi. 2000 (March). *Employment Equity Policy in Canada: An Interprovincial Comparison*. Ottawa: Status of Women Canada.

Buchanan, Ruth, and Sarah Koch-Schulte. 2000 (September). *Gender on the Line: Technology, Restructuring and the Reorganization of Work in the Call Centre Industry*. Ottawa: Status of Women Canada.

Johnson, Laura C., and Allison Ruddock. 2000 (September). *Building Capacity: Enhancing Women's Economic Participation Through Housing*. Ottawa: Status of Women Canada.

Lochhead, Clarence, and Katherine Scott. 2000 (March). *The Dynamics of Women's Poverty in Canada*. Ottawa: Status of Women.

Status of Women Canada. 1999 (August). *Canada's National Response to the UN Questionnaire of Implementation of the Beijing Platform for Action*. Ottawa: Status of Women Canada. www.sfe.cfc.gc.ca/beijing5/quest-e.html

Townson, Monica. 1997 (March). *Women and the Economy: Long-Term Policy Research Issues*. Ottawa: Status of Women Canada.

Other Federal

Abella, Rosalie Silberman. *Equality in Employment: A Royal Commission Report*. Ottawa: Queens Printer 1984.

Bilson, Beth. 2000 (December). *Pay Equity Task Force - Report on Phase I of Consultations*. Ottawa: Pay Equity Task Force.

Federation/Provincial/Territorial Ministers Responsible for the Status of Women. 2001 (March). *Women's Economic Independence and Security*. Ottawa: Federal/Provincial/ Territorial Ministers for the Status of Women.

Federal–Provincial/Territorial Ministers Responsible for the Status of Women. 1997. *Economic Gender Equality Indicators*. Ottawa.

Lavallée, Laval, Bert Pereboom, Irving Silver, and Ted Wannell. 1999 (December). *Employment-Equity Groups Among Post-Secondary Graduates*. Quebec: Human Resources Development Canada, Applied Research Branch.

McCartin, Michel, and Grant Schellenberg. 1999 (March). *The Future of Work: Non-Standard Employment in the Public Service of Canada*. Public Service Commission of Canada, Research Directorate, Policy, Research and Communications Branch. [online] [cited October 22, 2001]. www.psc-cfp.gc.ca/research/demographics/nonstandard_e.htm

Pay Equity Task Force. 2002 (January). *Research Agenda*. Ottawa: Pay Equity Task Force.

___. 2002 (January). *Review of Section 11 of the Canadian Human Rights Act and the Equal Wages Guidelines, 1986*. Discussion Paper. Ottawa: Pay Equity Task Force.

Provincial

British Columbia

BC Stats. *Business Indicators*.

___. ___. 2001 (November). Bucking the trend: B.C.'s economy during the 1990s. Ministry of Management Services.

___. ___. 2001 (August). The tourism sector. Ministry of Finance and Corporate Relations.

___. ___. 2001 (April). The new economy. Ministry of Finance and Corporate Relations.

___. ___. 2001 (February). An introduction to B.C.'s economy. Ministry of Finance and Corporate Relations.

___. ___. 2000 (October). Evolution of the B.C. labour force. Ministry of Finance and Corporate Relations.

___. ___. 1999 (April). Measuring employment in the public sector. Ministry of Finance and Corporate Relations.

___. ___. 1998 (January). Long-term trends in British Columbia. Ministry of Finance and Corporate Relations.

___. ___. 1996 (September). Manufacturing in British Columbia. *British Columbia*. Ministry of Finance and Corporate Relations.

BC Stats. *Earnings and Employment Trends.*

___. ___. 2001 (April). Having a second job. Ministry of Finance and Corporate Relations.

___. ___. 2001 (January/February). When workers retire. Ministry of Finance and Corporate Relations.

___. ___. 2000 (December). Year 2000 in review. Ministry of Finance and Corporate Relations.

___. ___. 2000 (October). BC unions continue to receive the lowest wage settlements in the country. Ministry of Finance and Corporate Relations.

___. ___. 2000 (September). Average weekly rates. Ministry of Finance and Corporate Relations.

___. ___. 2000 (August). Income and income distribution: Comparisons between BC and the rest of Canada. Ministry of Finance and Corporate Relations.

___. ___. 2000 (July). British Columbia employment equity data. Ministry of Finance and Corporate Relations.

___. ___. 2000 (March). Earnings of men and women. Ministry of Finance and Corporate Relations.

___. ___. 1999 (March). Incidence of low income in British Columbia. Ministry of Finance and Corporate Relations.

___. ___. 1998 (September). BC women posted a strong labour market performance in 1998. Ministry of Finance and Corporate Relations.

BC Stats. *Labour Force Statistics.*

___. ___. 2001 (June). The British Columbia labour market – Second quarter 2001. Ministry of Management Services.

___. ___. 2001 (May). B.C. regional labour market trends – 1995-2000. Ministry of Management Services.

___. ___. 2000 (December). The B.C. labour market in 2000. Ministry of Finance and Corporate Relations.

___. ___. 2000 (November). Trends in full-time and part-time employment in British Columbia. Ministry of Finance and Corporate Relations.

___. ___. 2000 (August). B.C. employment by industry – A ten year perspective. Ministry of Finance and Corporate Relations.

___. ___. 2000 (May). Labour force participation rates of B.C. women 1976 to 1999. Ministry of Finance and Corporate Relations.

___. ___. 2000 (February). B.C. educational attainment and labour market outcomes of persons Aged 25-54. Ministry of Finance and Corporate Relations.

___. ___. 2000 (January). Revisions to the Labour Force Survey. *Labour Force Statistics*. Ministry of Finance and Corporate Relations.

___. ___. 1999 (December). The B.C. labour market in 1999. Ministry of Finance and Corporate Relations.

___. ___. 1999 (November). Measuring changes in B.C. labour market conditions. Ministry of Finance and Corporate Relations.

___. ___. 1999 (October). B.C. full-time and part-time employment in the 1990's. Ministry of Finance and Corporate Relations.

___. ___. 1999 (August). Labour market changes: Women in the 1990's. Ministry of Finance and Corporate Relations.

___. ___. 1999 (April). B.C. public sector employment – 1988 to 1998. Ministry of Finance and Corporate Relations.

___. ___. 1999 (February). Changes in B.C. employment by industry, occupation and class of worker. Ministry of Finance and Corporate Relations.

BC Stats. *Small Business Quarterly.*

___. ___. 2000 (1st Quarter). Some distinctive features of the small business workplace. Ministry of Finance and Corporate Relations.

___. ___.1999 (2nd Quarter). A quarter of all employees in British Columbia work for small employers. Ministry of Finance and Corporate Relations.

___. ___. 1999 (1st Quarter). Self-employment in British Columbia takes on a new profile. Ministry of Finance and Corporate Relations.

BC Stats 2001. *Small Business Profile 2001: A Profile of Small Business Growth and Employment in British Columbia*. BC Stats.

___. 1998 (May 29), Gender economic equality – Has there been progress in BC?. *Infoline*. Ministry of Finance and Corporate Relations.

BC Council of Human Rights. 1994 (April). *Human Rights and Employment Equity: Interim Policy Guidelines*. Victoria: Council of Human Rights.

BC Human Rights Commission. 2001 (March 21). *Pay Equity in British Columbia. A response to the Ministry of Attorney General's Discussion Paper*. [unpublished].

BC Ministry of Attorney General. 2001 (February). *Pay Equity in British Columbia. A Discussion Paper*. Victoria: Ministry of Attorney General, Policy, Planning and Legislation Branch.

BC Ministry of Labour. 2000 (August). Review of the current minimum wage and rates. *Regulatory Impact Statement*. Victoria: Ministry of Labour.

BC Ministry of Multiculturalism and Immigration. 2000 (April). *Resource Manual for Ministries and Crown Corporations*. Vancouver: Ministry of Multiculturalism and Immigration.

BC Ministry of Skills Development and Labour 2001. (November). *Fair and Effective: A Review of Employment Standards in British Columbia*. Discussion Paper. Victoria: Ministry of Skills Development and Labour.

BC Ministry of Women's Equality. n.d. *Valued Voices: A Report on Women's Economic Equality*. Victoria: Ministry of Women's Equality.

___. 2000 (Summer/Fall). *Women's Economic Security and Pay Equity: A Discussion Paper*. Victoria: Ministry of Women's Equality.

BC Public Sector Employers' Council. n.d. Pay Equity Policy Framework. Victoria: Public Sector Employers' Council. [online] [cited September 7, 2001]. www.psec.gov.bc.ca/psec_overview.html

___. 2001. *British Columbia Government Workforce Profile*. Victoria: BC Stats.

Health Services and Support Facilities Subsector Collective Agreement 1998-2001.

Public Service Employee Relations Commission. 2001. "A Chronology of Pay Equity and Internal Equity in the BC Public Service" [Online] [Cited September 7, 2001] www.psercdept.pser.gov.bc.ca\classorg\JEP\Communications\Chronology

Public Service Employee Relations Commission. 2001 (September). *Public Service Job Evaluation Plan – Unplugged*. Victoria: PSERC.

___. 1998 (April 8). Corporate Personnel Management Employment Equity. In *Personnel Management Policy*. Chapter 2, Policy Directive 2.2 (revised). Victoria: Public Service Employee Relations Commission, Equity and Diversity Division.

___. 1995 (October). *Employment Barriers and Actions Required to Eliminate Them*. Victoria: Public Service Employee Relations Commission, Equity and Diversity Branch.

___. n.d. *Employment Equity and the Staffing Process*. Victoria: Public Service Employee Relations Commission, Equity and Diversity Branch. [online] [cited November 16, 2001] www.pserc.gov.bc.ca/ediv/EE_Staffing_Guide/EEStaffingGuide.htm

Hallin, Lillian. 2001. *A Guide to the BC Economy and Labour Market*. Victoria: BC Stats.

Kosteriva, Donna. 2000. (April). *Initiatives that Contribute to Closing the Income Gap in Non-British Columbian Jurisdictions*. Prepared for the Ministry of Women's Equality. [unpublished].

Lovett, Deborah, and Angela Westmacott. 2001. *Human Rights Review: A Background Paper*. Prepared for Administrative Justice Project. Victoria: Ministry of Attorney General.

McLaren, Arlene, and Margaret Manery. 2001. *Factors Affecting the Economic Status of Older Women in Canada: Implications for Mandatory Retirement*. Victoria: B.C. Human Rights Commission.

Union/Management Steering Committee on Employment Equity. 2000 (May). Employment Equity: Guidelines for Ministry Action Plans and Annual Progress Reports. [unpublished].

Ontario

Anstey, Sandra. 1988 (September 29). *Childcare Professionals in Ontario: Undervalued and Underpaid*. Report prepared for the Pay Equity Commission. [unpublished].

Armstrong, Pat. 1988 (September 26). *Predominantly Female Sectors: Health Care*. Report prepared for the Pay Equity Commission. [unpublished].

Bush, Patricia L. 1988 (September 26). *Female Predominant Workplace Study No. 6: Leather, Textile and Apparel Manufacturing Sectors*. Toronto: Pay Equity Commission. [unpublished].

Canadian Facts. 1993 (March). *Outcomes of Pay Equity for Organizations Employing 50-99 Employees in Ontario*. Toronto: Pay Equity Commission, Policy and Research Branch.

DeCoito, Paula. 1988 (September). *Pay Equity and the Personal Services Sector: Obstacles and Challenges*. A Study prepared for the Pay Equity Commission of Ontario. [unpublished].

Evans, Marilyn, and Associates. 1988 (September). *Predominantly Female Establishment Study: Retail Sector – Ontario*. Study conducted on behalf of the Pay Equity Commission. [unpublished].

___. 1988 (September). *Predominantly Female Establishment Study: Manufacturing Sector – Ontario*. Study conducted on behalf of the Pay Equity Commission. [unpublished].

Harris, Roma. 1988 (September). *The Library Sector*. A Report for the Pay Equity Commission. [unpublished].

Ontario. Pay Equity Commission 1996 (March). *Pay Equity: A Matter of Fairness*. Toronto: Pay Equity Commission. (Revised).

___. 1995 (August). *Maintaining Pay Equity: Using the Job-to-Job and Proportional Value Comparison Method* 1. Toronto: Pay Equity Commission.

___. 1995. Pay Equity Lesson Plan: English as a Second Language or Literacy Training. Toronto: Queens Printer.

___. 1994 (May). *Pay Equity Implementation Series*. Ontario: Pay Equity Commission. (Revised).

___. 1989 (October). Report to the Minister of Labour by the Ontario Pay Equity Commission on Options relating to the Achievement of Pay Equity in Sectors of the Economy which are Predominantly Female. Toronto: Pay Equity Commission.

___. 1989 (January). Report to the Minister of Labour by the Ontario Pay Equity Commission on Sectors of the Economy which are Predominantly Female, as Required under the Pay Equity Act, Section 33 (2) (e). Toronto: Pay Equity Commission.

___. n.d. A Guide to Pay Equity for the Broader Public Sector: A Job Evaluation System. Toronto: Pay Equity Commission.

___. n.d. A Guide to the Proxy Comparison Method. Toronto: Pay Equity Commission.

___. n.d. Commonly Overlooked Features of Work. Toronto: Pay Equity Commission.

___. n.d. Effective Pay Equity Committees. Toronto: Pay Equity Commission.

___. n.d. How to do Pay Equity Job Comparisons. Toronto: Pay Equity Commission.

___. n.d. Pay Equity in Non-Union Workplaces: Is the Law Working for You? Toronto: Pay Equity Commission.

___. n.d. Pay Equity Obligations of Private Sector Employers: Questions and Answers. Toronto: Pay Equity Commission.

___. n.d. *Step by Step to Pay Equity: A Guide for Small Business - The Workbook*, Vol. 1. Toronto: Pay Equity Commission.

___. n.d., *Step by Step to Pay Equity: A Guide for Small Business – The Job Evaluation System*, Vol. 2. Toronto: Pay Equity Commission.

___. n.d. *Step by Step to Pay Equity: Using the Proportional Value Comparison Method*, Vol. 3. Ontario: Pay Equity Commission.

Sayer and Associates. 1988 (September). *A Study of Female Employment in Ontario Tourism*. Prepared for the Pay Equity Commission of the Ontario Ministry of Labour.

Read, Jean M. 1996 (July 5). *Review of the Pay Equity Act*. Ontario.

Other Jurisdictions

Bastia, Tanja. 2000 (August). Qualitative and Quantitative Indicators for the Monitoring and Evaluation of the ILO Gender Mainstreaming Strategy. International Labour Organization. [online] [cite November 12, 2001]. www.ilo.org/public/english/bureau/gender

Concluding Observations of the Committee on Economic, Social and Cultural Rights: Canada 10/12/98. E.C. 12/Add.3.1.

New South Wales. 1998. *Pay Equity Inquiry: Reference by the Minister for Industrial Relations pursuant to section 146(1)(d) of the Industrial Relations Act 1996*. New South Wales: Department of Industrial Relations. [online] [cited November 23, 2001]. www.dir.nsw.gov.au/action/policy/equity/report

Quebec Commission de l'équité salariale. n.d. *Working Towards Pay Equity - Pay Equity Act: Highlights* [online] [cite September 8, 2001] www.ceb.gouv.qc.ca/publications/loibrefu.htm

Queensland. Industrial Relations Commission. 2001 (March). *Worth Valuing: A Report of the Pay Equity Inquiry*. Queensland: Industrial Relations Commission.

___. 2000 (October). *Pay Equity Inquiry: Discussion Paper*. Queensland: Industrial Relations Commission.

Government of Saskatchewan. 1999 (March). *Equal Pay for Work of Equal Value and Pay Equity: Policy Framework: Implementation Guide*. Saskatchewan: Government of Saskatchewan.

___. Women's Secretariat. 1997 (Winter). The Wage Gap - The difference in earnings between men and women. *The Source* 1 (2).

United Nations. 1995 (October 17) *Report of the Fourth World Conference on Women, Beijing, China*, 4-15 September 1995. A/Conf.177/20. ("*Platform for Action*")

World Bank. 2001 (January). *Engendering Development: Through Gender Equality in Rights, Resources and Voice*. Washington, D.C.: World Bank.

Legislation

Canada

Canadian Human Rights Act, S.C. 1976-77, c.33.

Canadian Human Rights Act, R.S.C. 1985, c. H–6.

Employment Equity Act,. S.C. 1995, c. 44.

Employment Insurance Act, S.C. 1996, c.3, as amended.

Canada Labour Code, R.S.C. 1985 C. L-2, as amended.

British Columbia

B.C. Benefits (Child Care) Act, 1996, R.S.B.C. 1996, c. 26.

Child Care (B.C.) Act, S.B.C. 2001, c. 4 as amended.

Employment Standards Act, R.S.B.C. 1996, c. 113, as amended.

Equal Pay Act,. S.B.C. 1953, c. 6(2nd sess).

Human Rights Code Amendment Act, 2001, S.B.C. 2001, c. 15.

Public Service Act, R.S.B.C. 1996, c. 385.

Others

Manitoba. *The Pay Equity Act*, S.M. 1985, c. P13.

New Brunswick. *Pay Equity Act, R.S.N.B.* 1989, c. P–5.01.

Nova Scotia. Pay Equity Act, R.S.N.S. 1989, c. 337 as amended.

Ontario. *Employment Standards Act*, S.O. 2000, c. 41.

Ontario. *Pay Equity Act*,. R.S.O. 1988, c. P.7 as amended.

Prince Edward Island. *Pay Equity Act*, R.S.P.E.I. 1988, c. P-2 as amended.

Quebec. *Charter of Human Rights and Freedoms*, R.S.Q. 1975, c. C-12 as amended.

Quebec. *Pay Equity Act*,. R.S.Q. 1995, c. E-12.001 as amended.

International Covenants and Agreements

Convention on the Elimination of All Forms of Discrimination against Women. GA Res. 34/180, UN GAOR, 34th Sess., (Supp. No. 46), U.N. Doc. A/34/46, (1982) Can. T.S. 1982 No. 31.

International Covenant on Civil and Political Rights, GA. Res. 2200A (XXI), 21 UN GAOR, (Supp. No. 16) 52, UN Doc A/6316 (1966), 999 U.N.T.S. 171, Can. T.S. 1976 No. 47.

International Covenant on Economic, Social and Cultural Rights, GA Res. 2200A (XXI), 21 UN GAOR (Supp. No. 16), U.N. Doc. A/6316 (1966), 993 U.N.T.S. 3, Can. T.S. 1976 No. 46.

International Labour Organization *Convention concerning Equal Remuneration for Men and Women of Work of Equal Value*, Adopted 29/06/195, ratified by Canada 16/11/72.

Universal Declaration of Human Rights, GA Res. 217A (III), UN Doc. A/810 (1948).

Case Law

Action Travail des Femmes v. C.N. Railway Co. (1984), 5 C.H.R.R. D/2327 (Cdn. Human Rights Trib.); rev. (*sub nom Cdn. National Railway v. Canada (Cdn. Human Rights Comm.)* [1985] 1 F.C. 96, 6 C.H.R.R. D/2908 (C.A.); revd [1987] 1 S.C.R. 1114, 8 C.H.R.R. D/4210 (S.C.C.).

Bell Canada v. CTEA et al, [1998] F.C.J. No. 313.

Bell Canada v. CTEA et al, [1998] F.C.J. No. 312.

Bell Canada v. CTEA et al, [1999] 1 F.C. 113 (C.A).

Bell Canada v. CTEA et al, [2001] 2 F.C. 392 (T.D.).

Bell Canada v. CTEA et al, [2001] 3 F.C. 481 (C.A).

Canadian Union of Public Employees v. Canadian Airlines International Ltd., [2000] F.C.J. No. 1258.

Lesiuk v. Canada, Decision of the Employment Insurance Umpire. Unreported. March 22, 2001.

Nishimura v. Ontario (Human Rights Commission) (1989), 7 O.R. 2d 347 (Div. Ct.).

Northwest Territories v. PSAC, [1996] 3 F.C. 182.

Northwest Territories v. PSAC, [1997] 3 F.C.J. No. 143.

Northwest Territories v. PSAC, [1997] S.C.C.A. No. 186.

Northwest Territories v. PSAC, [1999] F.C.J. No. 48.

Northwest Territories v. PSAC, [1999] 3 F.C.J. No. 1970.

Northwest Territories v. PSAC, [2001] 3 F.C.A. No. 162.

Northwest Territories v. PSAC, [2001] F.C.J. No. 1646, aff'd [2001] F.C.A. 259.

PSAC (No. 2) v. Canada (Treasury Board) (1996), 29 C.H.R.R. D/349 (Can. Trib.).

PSAC (No. 3) v. Canada (Treasury Board) (1998), 32 C.H.R.R. D/349 (Can. Trib.).

Vancouver (City) v. Reid (No. 5) (2000), 37 C.H.R.R. D/218 (BCHRT).

APPENDIX D: SIGNIFICANT FEDERAL PAY EQUITY CASES

The following paragraphs summarize the proceedings in four well-publicized federal pay equity cases. The length, complexity, multiplicity of proceedings, and costs associated with these cases have provided the basis for trenchant criticism of the federal pay equity model, and complaints-based models generally, as well as a stimulus for reform.

Canadian Telephone Employees Association et al v. Bell Canada

Between 1988 and 1997, the Canadian Telephone Employees Association and a number of the employees it represented filed several individual or group complaints seeking to compare specific, largely female jobs to other specific, largely male jobs under the equal pay provisions of the *Canadian Human Rights Act*. In 1991, Bell, the CTEA and the Communications, Energy and Paperworkers Union of Canada, which represented Bell employees not represented by the CTEA, agreed to undertake a joint pay equity study. The joint study's final report concluded that there were patterns of disparity in the pay of certain male and female jobs and recommended that the parties deal with these disparities in collective bargaining. However, relying on the joint study, the unions filed new s. 11 complaints in 1994. The Commission circulated an investigation report on these new complaints in 1995, at which time Bell objected to the use of the joint study to found these complaints.

In 1996, the Commission referred the CTEA's, CEP's and Femmes Action's complaints to a Tribunal. Bell applied for judicial review of this decision. Bell subsequently applied for judicial review of the Tribunal's decision that it was institutionally independent and impartial even though it is required to interpret the *Canadian Human Rights Act* according to guidelines issued by the Commission. Both of Bell's applications succeeded in the Federal Court Trial Division in March 1998[1]. In November 1998, the Federal Court of Appeal overturned the Trial Division's judgment that the Commission's decision to refer the complaints to the Tribunal had been procedurally unfair.[2]

In June 1998, amendments to the *CHRA* came into force.[3] These amendments modified the Commission's power to issue binding guidelines and slightly altered the security of tenure provisions for Tribunal members.

In December 1998, the Commission requested that a new Tribunal hear the complaints. Bell again objected that the Tribunal did not have sufficient institutional independence and impartiality. In April 1999, the Tribunal ruled that it did. Bell sought a judicial review of the Tribunal's decision. In November 2000, the Federal Court Trial Division allowed Bell's application, finding that the Tribunal was insufficiently independent and impartial.[4] However, in May 2001, the Federal Court of Appeal overturned the lower court's decision.[5]

---

[1] *Bell Canada v. CTEA et al*, [1998] F.C.J. No. 313; *Bell Canada v. CTEA et al*, [1998] F.C.J. 312.

[2] *Bell Canada v. CTEA et al*, [1999] 1 F.C. 113 (C.A.).

[3] S.C. 1998, c.8.

[4] [2001] 2 F.C. 392 (T.D.).

[5] [2001] 3 F.C. 481 (C.A.).

The Supreme Court of Canada granted Bell leave to appeal in December 2001. That case is expected to be heard in December 2002.

The Tribunal had begun hearings on the merits of the complaints in 1999. Some 36 days of hearings were held up to November 2000, when they stopped after the Federal Court's initial decision finding the Tribunal to be institutionally biased and lacking in independence. Hearings resumed in September 2001 after the Federal Court of Appeal's decision reversing the lower court's decision. The Tribunal's hearings are currently in progress.

Public Service Alliance of Canada ("PSAC") v. Government of the Northwest Territories ("GNWT")

PSAC filed a s. 11 complaint against GNWT in 1989 alleging contraventions of s. 11 and s. 10 (discrimination in employment) of the *CHRA*. The parties jointly conducted an equal pay study with the Commission's involvement from 1989 to 1991, with a final report issued in 1992. The Commission used the study as its own investigation. It issued its investigation report in 1993, referring the complaint to a conciliator. GNWT applied for judicial review of the referral alleging an apprehension of bias because the Commission's investigators were represented by PSAC. GNWT was successful in its application before the Federal Court, Trial Division in 1996,[6] and PSAC appealed the decision to the Federal Court of Appeal. The Court of Appeal reversed[7] the Trial Division's decision and the Supreme Court of Canada denied leave to appeal.[8]

The Commission then referred the s. 11 portion of PSAC's complaint to the Tribunal while continuing its review of the s. 10 portion of the complaint (alleging sex discrimination in employment arising from GNWT's job classification system). GNWT sought judicial review of this bifurcation of the complaint.[9] The Federal Court found that the Tribunal's decision to separate the components of the complaint was not reviewable. GNWT appealed. The appeal was subsequently discontinued. The parties agreed upon a new classification system in collective bargaining in 1998, and the Commission halted its inquiry into the s. 10 complaint.

The Tribunal hearing on the section 11 complaint began in 1998 with a preliminary motion by GNWT challenging the Tribunal's independence on the same basis as in the *Bell* case. In 1999, GNWT brought other preliminary motions relating to the proper venue for the hearings and a request for the complainant union to be added as a respondent. The Federal Court, Trial Division held that GNWT could not properly challenge the Tribunal's independence as GNWT is itself part of the federal Crown.[10] Having decided GNWT did not have standing, the Federal Court, Trial Division did not address the merits of the other questions submitted by GNWT. GNWT appealed to the Federal Court of Appeal. That court found that GNWT did have standing to challenge the Tribunal's independence. It also decided to address the other issues raised by GNWT which were not ruled on below. The Court of Appeal held that there was no interference with the institutional independence or impartiality of the Tribunal.[11]

---

[6] *Northwest Territories v. PSAC*, [1996] 3 F.C. 182.

[7] *Northwest Territories v. PSAC*, [1997] F.C.J. No. 143.

[8] *Northwest Territories v. PSAC*, [1997] S.C.C.A. No. 186.

[9] *Northwest Territories v. PSAC*, [1999] F.C.J. No. 48.

[10] *Northwest Territories v. PSAC*, [1999] F.C.J. No. 1970.

In 2000, the parties argued motions regarding documents over which the union and GNWT respectively claimed privilege. The Tribunal found that most of the documents were privileged.[12] In 2001, the CHRC and union sought rulings from the Federal Court on the GNWT's claim of Cabinet privilege over a number of documents. The Federal Court for the most part upheld the GNWT's claim. Hearings into the merits of the complaints continue before the Tribunal.

PSAC v. Treasury Board

In 1984, PSAC filed a pay equity complaint against the Treasury Board on behalf of 50,000 clerical workers, 80% of whom were women.[13] The government established a "Joint Union-Management Initiative on Equal Pay for Work of Equal Value" (JUMI) to attempt to resolve the issues raised by the complaint. JUMI tried to evaluate over 3,000 jobs and difficulties soon arose between the parties over how to approach the task. After about four years, the complaint was reactivated. The Commission referred the complaint to the Tribunal in 1990. Before the Tribunal, the government argued that the results obtained from JUMI were unreliable.

The Tribunal rendered its decision on the complaints in two parts. In 1996, it held that, although there were problems with the JUMI data, the study's results were not unreliable.[14] In 1998, the Tribunal held that the government had violated s. 11 of the *CHRA*.[15] It ordered the government to correct the wage gaps, retroactive to March 8, 1985, and awarded simple interest on those amounts. The government unsuccessfully applied for judicial review of the Tribunal's 1998 decision. In October 1999, after the release of the Federal Court's decision, the parties announced that they had agreed to implement the Tribunal's decision, resulting in a payment of roughly $3.6 billion, in addition to earlier, voluntary payments of $1.1 billion.

According to the Commission's 1998 Annual Report, the complaint took 275 days of hearings spread over several years.[16]

CUPE (Airline Division) v. Canadian Airlines International Ltd. and Air Canada

In 1991, CUPE filed a pay equity complaint against Air Canada alleging that the airline's salary structure discriminated against flight attendants by, among other things, paying the flight attendants less that two predominantly male employee groups: pilots and aircraft maintenance/technical personnel. CUPE filed a similar complaint against Canadian Airlines in 1992. In 1993, the airlines sought a court order prohibiting the Commission from investigating the complaints on the basis that the occupational groups in question were not employed in the "same establishment," within the meaning of s. 11(1) of the *CHRA*. The parties settled this application by agreeing to have the Commission and/or Tribunal address the issue before proceeding to court.

---

[11] *Northwest Territories v. PSAC*, [2001] F.C.A. 162, see also *Bell Canada v. CTEA et al* [2001] 3 F.C. 481.

[12] This decision was also judicially reviewed in *Northwest Territories v. PSAC*, [2001] F.C.J. No. 1646, aff'd [2001] F.C.A. 259 resulting in some variation to the Tribunal's ruling.

[13] Handman and Jensen, *supra*, at 77.

[14] *PSAC (No. 2) v. Canada (Treasury Board)* (1996), 29 C.H.R.R. D/349 (Can. Trib.).

[15] *PSAC (No. 3) v. Canada (Treasury Board)* (1998), 32 C.H.R.R. D/349/ Can. Trib.).

[16] Canadian Human Rights Commission, *Annual Report, 1998*, at 7.

In 1996, the Commission referred the complaints to the Tribunal for hearing. In 1998, the Tribunal ruled that the flight attendants were not employed in the same establishment as the pilots and aircraft maintenance/technical personnel because these three groups of employees were not subject to common wage and personnel policies. The Commission and CUPE sought judicial review of the Tribunal's decision. Hansen J. of the Federal Court, Trial Division, dismissed their application.[17] The Commission has appealed this decision to the Federal Court of Appeal, but no hearing date has yet been set.

---

[17] *Canadian Union of Public Employees v. Canadian Airlines International Ltd.*, [2000] F.C.J. No. 1258.

APPENDIX E: GENDER WAGE GAP BY INDUSTRY IN BRITISH COLUMBIA

	All Workers	Full-time Workers
Total Employees	19%	18%
Goods-producing sector	29%	30%
Agriculture	13%	19%
Forestry, fishing, mining, oil and gas	22%	18%
Utilities	1%	4%
Construction	21%	20%
Manufacturing	30%	31%
Services-producing sector	16%	16%
Trade	25%	25%
Transportation and warehousing	20%	19%
Finance, insurance, real estate and leasing	26%	26%
Professional, scientific and technical services	19%	18%
Management of companies and administrative and other support services	9%	10%
Educational services	16%	15%
Health care and social assistance	8%	8%
Information, culture and recreation	18%	19%
Accommodation and food services	13%	15%
Other services	29%	33%
Public administration	15%	15%